

Linn Benton Lincoln Education Service District

Code: **GCDA/ GDDA**
Adopted: 7/8/98
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Criminal Records Checks and Fingerprinting *

In a continuing effort to ensure the safety and welfare of students and staff, the ESD shall require certain individuals to submit to a criminal records check and fingerprinting as required by law. This includes employees, contractors, volunteers and others.

Requirements for Employees

All newly hired employees¹ not identified under Oregon Revised Statutes (ORS) 342.223² are required to submit to a criminal records check and fingerprinting as required by law. A newly hired employee is not subject to fingerprinting if the ESD has evidence on file that the person successfully completed a state and national criminal records check for a previous employer that was a school district³ or private school, and has not resided outside the state between the two periods of employment⁴.

An individual may be subject to the collection of fingerprint information, only after the offer of employment from the ESD. Fees charged by the vendor collecting fingerprints for fingerprint based background checks for individuals applying for employment with the ESD and not requiring licensure shall be paid by the individual.

The ESD may⁵ begin the employment of an individual before the return and disposition of the required criminal records checks.

When the criminal records check indicates an individual has been convicted of any crimes⁶ prohibiting employment, the individual will not be employed, or if employed will be terminated. When the criminal records check indicates an individual has knowingly made a false statement as to the conviction of any crime, the individual may be employed by the ESD, or if employed by the ESD may be terminated. An individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the ESD as provided by law may be employed by the ESD. Employment termination shall remove the individual from any ESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.

Requirements for individuals in positions requiring licensure, certification or registration with Teacher Standards and Practices Commission (TSPC) are outlined in ORS 342.223.

¹ Any individual hired within the last three months. This does not include an employee hired within the last three months if the ESD has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

² ORS 342.223 includes teachers, administrators, personnel specialist, school nurses, persons participating in supervised clinical practice experience, practicum or internship as a teacher, administrator or personnel specialist. See statute for details.

³ As is defined in OAR 581-021-0510(9); includes school districts, the Oregon School for the Deaf, and educational program under the Youth Corrections Education Program, ESDs and public charter schools.

⁴ Additional exception applies through July 1, 2024. See ORS 326.603(4)(b).

⁵ Decisions regarding which employees may begin before the return of the required criminal records checks must be made in a nondiscriminatory manner.

⁶ See OAR 581-021-0511(8).

Requirements for Contractors⁷

All individuals employed as or by a contractor and considered by the ESD to have direct, unsupervised contact with students⁸ or unsupervised access to children are required to submit to a criminal records check and a fingerprint-based criminal records check.

The superintendent or designee will identify contractors who are subject to such requirements.

A contractor or an employee of a contractor required to submit to a criminal records check and fingerprinting in accordance with law and Board policy will be terminated from contract status, or withdrawal of offer of contract will be made by the ESD upon:

1. Refusal to consent to a criminal records check and fingerprinting; or
2. Notification⁹ from the Superintendent of Public Instruction that the individual has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.

A subject individual will be terminated from contract status upon notification from the Superintendent of Public Instruction that the individual has knowingly made a false statement as to the conviction of any crime.

Requirements for Volunteers

The ESD shall require a fingerprint-based criminal records check for volunteers allowed direct, unsupervised contact with students, in the following positions:

1. Head coach;
2. Assistant coach;
3. Overnight chaperone;
4. Volunteers transporting students, other than their own, in a private vehicle off ESD property for an ESD-sponsored activity;
5. List of other positions subject to this fingerprinting, if any.

The service of a volunteer into a position identified by the ESD as requiring a fingerprint-based criminal records check will not begin before the return and disposition of a state and national criminal records check based on fingerprints.

⁷ The ESD should include language regarding background checks in any contract that includes direct, unsupervised contact with students whenever applicable.

⁸ “Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision. (OAR 581-021-0510)

⁹ Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.

¹⁰Volunteers allowed by the ESD into a position designated by the ESD to have direct, unsupervised contact with students shall submit to a criminal records check.

The service of a volunteer allowed to have direct, unsupervised contact with students will not begin before the return and disposition of a criminal records check.

A volunteer who knowingly made a false statement on an ESD volunteer application form or has a conviction of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the ESD.

Fees associated with a required fingerprinting for volunteers may be paid by the individual. Fees associated with required non-fingerprinting criminal records checks for volunteers shall be paid by the ESD.

A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and Board policy will be denied such ability to volunteer in the ESD.

Requirements for Others

Any community college faculty member providing instruction at the site of an early childhood education program, at a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day is required to submit to a criminal records check and a fingerprint-based criminal records check.

Any individual who is an employee of a public charter school and not identified under ORS 342.223 is required to submit to a criminal records check and a fingerprint-based criminal records check.

Notification

The ESD will provide written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or volunteer forms.

The ESD will provide the following notification to individuals subject to criminal records checks and fingerprinting:

1. Such criminal records checks and fingerprinting are required by law or Board policy;
2. All employment or contract offers or the ability to volunteer are contingent upon the results of such checks;
3. A refusal to consent to a required criminal records check and fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the ESD;

¹⁰ If the ESD allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and ESDs are required to conduct criminal records checks on these volunteers.

4. A determination by the Oregon Department of Education (ODE) which affects an individual's eligibility to be employed, or contracted with, by the ESD may be appealed to the Superintendent of Public Instruction under ORS 183.413 – 183.470;
5. An individual determined to have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts, or ODE forms (written or electronic) may result in immediate termination from employment or contract status;
6. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status.
7. A volunteer candidate who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the ESD. The ESD will remove the volunteer from the position allowing direct, unsupervised contact with students.

Processing and Reporting Procedures

Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the ESD.

1. Fingerprints will be collected by the authorized fingerprinter identified by the Oregon Department of Administrative Services.

The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the ESD of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime or has a conviction of a crime prohibiting employment, contract or volunteering.

A copy of the fingerprinting results will be kept by the ESD. The ESD's use of criminal history must be relevant to the specific requirements of the position, services or employment.

END OF POLICY

Legal Reference(s):

ORS 181A.180
ORS 181A.230
ORS 326.603
ORS 326.607
ORS 334.125
ORS 336.631
ORS 342.143
ORS 342.223
OAR 414-061-0010 – 061-0030
OAR 581-021-0510 – 021-0512
OAR 581-022-2430
OAR 584-050-0012
OAR 584-050-0100

Title VII of the Civil Rights Act of
1964, as amended, 42 U.S.C. § 2000e,
et. seq. (2018)