

Criminal Records Checks/Fingerprinting

Definition:

1. "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.

In a continuing effort to ensure the safety and welfare of students and staff, the ESD shall require all newly hired full-time and part-time employees not requiring licensure to undergo a criminal records check and/or fingerprinting. Other individuals, as determined by the ESD, who will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting, as required by law.

As required by state law, a criminal records check and/or fingerprinting shall be required of the following individuals:

1. All ESD contractors and their employees, whether employed part-time or full-time, considered by the ESD to have direct unsupervised contact with students;
2. All ESD contractors and their employees who provide early childhood special education or early intervention services in accordance with rules established by the Oregon Department of Education, Child Care Division;
3. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood education program or at a grade K through 12 school site during the regular school day;
4. Any individual considered for volunteer service with the ESD who is allowed to have direct, unsupervised contact with students.

The ESD shall require a nationwide criminal records check based on fingerprinting for a volunteer with direct, unsupervised contact with students in the following positions:

1. Classroom volunteers;
2. Volunteers assisting with implementing ESD sponsored activities for students;
3. Volunteers transporting students, other than their own, in a private vehicle off ESD property for an ESD sponsored activity.

The identity of a subject individual requiring fingerprinting will be provided by the ESD to the authorized fingerprinter for verification.

A subject individual shall be subject to fingerprinting only after acceptance of an offer of employment or contract.

A subject individual who has been convicted of any crimes prohibiting employment or contract will be terminated and/or will not be employed or contracted.

A subject individual who fails to disclose or knowingly makes a false statement as to the presence of convictions that would not otherwise prohibit his/her employment or contract with the ESD, as provided by law, may be employed or contracted with by the ESD.

The ESD's use of criminal history must be relevant to the specific requirement of the position, services or employment.

A subject individual who fails to disclose or knowingly makes a false statement or has been convicted of a crime listed in ORS 342.143 will immediately be terminated from the ability to volunteer for the ESD.

The ESD shall begin the employment of a subject individual or terms of an ESD contractor on a probationary basis pending the return and disposition of criminal records checks and/or fingerprinting.

The service of a volunteer may begin on a probationary basis pending the return and disposition of a criminal records check and/or fingerprinting.

The service of a volunteer in a position identified by the ESD as requiring fingerprinting may begin on a probationary basis pending the return and disposition of a nationwide criminal records check.

Fees associated with a criminal records check and/or fingerprinting may be charged.

The Superintendent shall develop administrative regulations as necessary to meet the requirements of the law.

Appeals

A subject individual may appeal a determination that prevents employment or eligibility to contract with the ESD to the Superintendent of Public Instruction as a contested case and will be so notified of such in writing by ODE.

A volunteer required to submit to a fingerprint- based criminal records check may appeal a determination that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case, if the results of the background check were provided by ODE or ODE's vendor and will be notified of such in writing by ODE.

END OF POLICY

Legal Reference(s):

[ORS 181A.180](#)

[ORS 181A.230](#)

[OAR 414-061-0010 to 0030](#)

[OAR 581-022-2430](#)

[ORS 326.603](#)

[ORS 336.631](#)

[ORS 342.127](#)

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 200e, et.seq.(2102)

[OAR 584-050-0012](#)

[ORS 326.607](#)

[OAR 581-021-0500](#)

[OAR 584-050-0012](#)

[ORS 334.125](#)

[ORS 342.223](#)

[ORS 342.143](#)