

Criminal Records Checks/Fingerprinting

Requirements

1. Any individual newly hired, whether full-time or part-time, and not requiring licensure as a teacher, administrator, personnel specialist or school nurse will be required to undergo a nationwide criminal records check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years will also be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
3. Any individual registering with TSPC for student teaching, practicum, or internship as a teacher, administrator, or personnel specialist will be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
4. Any ESD contractor and its employees¹, whether part-time or full-time, hired into a position having direct, unsupervised contact with students will be required to undergo a nationwide criminal records check and fingerprinting.
5. The Superintendent will identify ESD contractors who are present on ESD property and regularly interact with students and are subject to such requirements.
6. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services will be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE) Child Care Division.
7. Any community college faculty member providing instructions at the site of an early childhood education program or at a school site as part of an early childhood program, or at a K through 12 school site during the regular school day, will be required to undergo a nationwide criminal records check and fingerprinting.
8. ²Any individual authorized by the ESD for volunteer service in a position allowing direct, unsupervised contact with students will be required to undergo a criminal records check and fingerprinting.
9. Any individual authorized by the ESD for volunteer service who is not likely to have direct, unsupervised contact with students will be required to undergo an Oregon criminal records check.

¹ A contractor's employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

² If the ESD allows volunteers to have direct, unsupervised contact with students, ESDs are required to conduct criminal background checks on these students.

Exceptions

A newly hired employee is not subject to fingerprinting if the ESD has evidence on file that the newly hired employee previously and successfully completed an Oregon and an FBI criminal records check by a previous employer that was a school district or ESD.

Evidence of the prior check will be either a copy of the criminal records check, or a written statement of verification from a supervisor or officer of the previous employer. Furthermore:

1. The ODE or TSPC verification of a previous check will be acceptable only in the event the ESD can demonstrate the records are not otherwise available; and
2. The ESD will maintain evidence that the employee has not resided outside the state during the interval between the two periods of time working for the ESD.

Notification

1. The ESD will provide the following notification to individuals subject to criminal records checks and fingerprinting of the following:
 - a. Such criminal records checks and/or fingerprinting are required by law and/or Board policy;
 - b. Any action resulting from such checks that impact employment or contract or volunteering may be appealed as a contested case;
 - c. All employment, contract offers or the ability to volunteer are contingent upon the results of such checks;
 - d. A refusal to consent to a required criminal records checks and/or fingerprinting, shall result in immediate termination from employment, contract status or the ability to volunteer for the ESD.
 - e. An individual determined to have failed to disclose or have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts, ODE forms , written or electronic, may result in immediate termination from employment or contract status.
 - f. 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;
 - g. A volunteer candidate who knowingly made a false statement or has been convicted of any crime listed in ORS 342.143 will result in immediate termination from the ability to volunteer in the ESD.
2. The ESD will provide the written notice described above through such means as employment applications, contracts or volunteer forms.

Processing and Reporting Procedures

1. Any individual subject to criminal records checks and/or fingerprinting will complete the appropriate forms or requirements as approved by ODE (information available through the ESD).
2. All individuals subject to fingerprinting pursuant to state law, are required by the ESD to report within ten calendar days to an authorized fingerprinter for fingerprinting.

Fingerprints may be collected by one of the following:

- a. Employing ESD staff;
- b. Contracted agent of employing ESD; or
- c. Local or state law enforcement agency.

Individuals subject to fingerprinting will be subject only after acceptance of an offer of employment or contract.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the ESD will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then notify the ESD of said results as well as the identity of any subject individual it believes has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment or contract or volunteering.
5. A copy of the fingerprinting results will be kept by the ESD.

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the ESD and not requiring licensure, including contractors³ and their employees, will be paid by the individual(s).
2. Individuals offered employment by the ESD may request that the amount of the fee be withheld from the employee's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with Oregon law. The ESD may withhold such fees only upon the request of the individual.
3. Fees associated with required criminal records checks for volunteers will be paid by the individual.
4. In special circumstances program administrators may determine an alternative arrangement for payment of fingerprinting fees.

Termination of Employment or Withdrawal of Employment/Contract Offer

1. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or the offer of employment or contract will be withdrawn by the Superintendent immediately upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or

³ A contractor's employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

- b. Notification from the Superintendent of Public Instruction or his/her designee that the employee has a conviction of a crime prohibiting employment with the ESD as specified by law.

2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law may be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the Superintendent, upon notification from the Superintendent of Public Instruction or his/her designee that the employee has failed to disclose or has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any ESD policies or collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for 21st Century Law.
4. Any volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit to a required criminal records check and fingerprinting to acquire or maintain a volunteer status in the ESD in accordance with law and/or Board policy will be denied the ability to volunteer for the ESD.
5. If the ESD has been notified by the Superintendent of Public Instruction that an individual knowingly made a false statement or has a conviction of any crime listed in ORS 342.143 the individual will be denied the ability to volunteer.
6. Any volunteer who fails to disclose or knowingly makes a false statement, as determined by the ESD, on an ESD volunteer application form may be denied the ability to volunteer in the ESD.

Appeals

An 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 notified as 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.