

OSBA Model Sample Policy

Code: GCDA/GDDA-AR
Revised/Reviewed:

Criminal Records Checks and Fingerprinting

Requirements

1. Any individual newly hired employee¹ ~~[, whether full-time or part-time,]~~ and not requiring licensure under Oregon Revised Statute (ORS) 342.223 as a teacher, administrator, personnel specialist or school nurse, shall submit to a criminal records check and fingerprinting. *All newly hired employees shall be required to undergo a nationwide criminal records check.*
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 shall be required to undergo a criminal records check and fingerprinting with TSPC.
3. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to submit to a criminal records check and fingerprinting with TSPC.
4. Any individual hired as or by a contractor² ~~[, whether part-time or full-time,]~~ into a position having direct, unsupervised contact with students as determined by the district shall be required to submit to a criminal records check and fingerprinting.

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

5. 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 program or at a grade K through 12 school site during the regular school day, shall be required to undergo a criminal records check and fingerprinting.
6. Any individual who is an employee of a public charter school not requiring licensure under ORS 342.223 shall be required to undergo a criminal records check and fingerprinting.
7. ³ ~~[1]~~ A volunteer allowed by the district into a position that has direct, unsupervised contact with students shall undergo an in-state criminal records check.

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

² A person hired as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

³ [If the district allows volunteers to have direct, unsupervised contact with students, districts are required to conduct criminal records checks on these volunteers. Choose the bracketed language options in 7, 8 and/or 9 of this policy that aligns with district practice. If the district allows volunteers to have direct, unsupervised contact with students the presented language is required. Align policy IICC – Volunteers with chosen language here.]

8. ~~[A volunteer allowed to have direct, unsupervised contact with students, into a volunteer position identified in Board policy⁴ by the district as requiring a fingerprint-based criminal records check, shall undergo a state and national criminal records check based on fingerprints.]~~
9. ~~[A volunteer that is not likely to have direct, unsupervised contact with students {will} {will not} be required to undergo an in-state criminal records check.]~~
a nationwide

Exceptions

A newly hired employee⁵ is not subject to fingerprinting if the district has evidence on file that the employee successfully completed ~~a state and national criminal records check~~ for a previous employer that was a school district or private school, and has not resided ~~outside the state~~ between the two periods of employment.
fingerprinting

Notification

1. The district will provide the following notification to individuals subject to criminal records checks and/or fingerprinting:
 - a. Such criminal records checks and/or fingerprinting are required by law or Board policy;
 - b. Any action resulting from such checks completed by the Oregon Department of Education (ODE) that impact employment, contract or volunteering may be appealed as a contested case to ODE;
 - c. All employment or contract offers ~~for the ability to volunteer~~ are contingent upon the results of such checks;
 - d. A refusal to consent to a required criminal records check and/or fingerprinting shall result in immediate termination from employment ~~, or~~ contract status ~~or the ability to volunteer in the district~~;
 - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts ~~, or~~ ODE forms ~~(written or electronic)~~ ~~may~~ ~~will~~ 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 ~~;~~ ~~or~~;
 - g. ~~[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 {may} {will} result in immediate termination from the ability to volunteer in the district.]~~ ~~[The district {may} {will} remove the volunteer from the position allowing direct, unsupervised contact with students.]~~
2. The district will provide the written notice described above through means such as staff handbooks, employment applications, contracts or ~~{volunteer}~~ forms.

Processing and Reporting Procedures

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

⁴ See policy GCDA/GDDA – Criminal Records Checks and Fingerprinting.

⁵ Any individual hired within the last three months.

such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.

2. Fingerprints may be collected by one of the following:
 - a. Employing district staff;
 - b. Contracted agent of employing district; or
 - c. Local or state law enforcement agency.
3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district 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 review and notify the district 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, 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 district.

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including persons hired as or by contractors⁶, shall be paid by the ~~[individual] [district]~~.
2. An individual offered a contract or employment by the district may, only upon request, request that the amount of the fee be withheld from the amount otherwise due the individual in accordance with Oregon law~~.]~~
3. Fees associated with required criminal records checks for volunteers shall be paid by the ~~[individual] [district]~~.
4. ~~[Fees associated with a required fingerprinting for volunteers shall be paid by the [individual] [district].]~~

Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status

1. A subject 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 withdrawal of offer of employment or contract will be made by the district upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁷ from the Superintendent of Public Instruction that the employee 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.

⁶ A person hired as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

⁷ 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.

2. A subject individual ~~{may}~~ ~~[will]~~ be terminated from employment or contract status upon notification from the Superintendent of Public Instruction that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. ~~{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/or Board policy will be denied such ability to volunteer in the district.}~~
5. ~~{If the district has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for 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, the individual [will] {may} be denied the ability to volunteer.}~~
6. ~~{A volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form [will] {may} be denied the ability to volunteer in the district.}~~

Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records checks by ODE that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.