

Estacada School District 108

Code:GCDA/GDDA

Adopted:1/9/13

Readopted: 1/8/14;3/9/16;10/12/16;3/14/18;10/10/18

First Reading: 10/9/19

Criminal Records Checks and Fingerprinting *

In a continuing effort to ensure the safety and welfare of students and staff, the district shall require all newly hired full-time and part-time employees not requiring licensure under Oregon Revised Statute (ORS) 342.223 to undergo submit to a criminal records check and/or fingerprinting as required by law. Other individuals, as determined by the district, that will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting as established by Board policy and as required by law.

“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.

As required by Pursuant to state law, a criminal records check and/or fingerprinting-based criminal records checks shall be required of the following individuals²:

1. All district individuals employed as or by a contractors and their employees, whether employed part-time or full-time, and considered by the district to have direct, unsupervised contact with students;
2. All district 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, 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;
4. Any individual who is an employee of a public charter school and not requiring licensure under ORS 342.223; and
5. Any individual considered for volunteer service with the district who is allowed to have direct, unsupervised contact with students.

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

~~* 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(1)(b).~~

² Subject individuals and requirements are further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

³ [If the district allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and districts are required to conduct background criminal records checks on these volunteers.]

The district shall require a nationwide fingerprint-based criminal records check based on fingerprinting for volunteers with allowed direct, unsupervised contact with students in the following positions⁴:

1. Head coach;
2. Assistant coach;
3. Overnight chaperone;
4. Volunteers transporting students, other than their own, in a private vehicle off district property for a district-sponsored activity;

5. ~~List of other positions subject to this fingerprinting, if any.~~

The identity of a subject individual requiring fingerprinting will be provided by the district to the authorized fingerprinter for verification. The procedure for processing fingerprint collection is further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprinting information, only after acceptance of an offer of employment or contract from the district and may be charged a fee by the district. A subject individual may request the fee be withheld from the amount otherwise due the individual.

The district ~~shall~~ ~~shall not~~ begin the employment of a subject individual or terms of a district contractor ~~on a probationary basis pending~~ before the return and disposition of the required criminal records checks.

When the district is notified of a subject individual who has been convicted of any crimes prohibiting employment or contract will be terminated and/or the individual will not be employed or contracted, or if employed will be terminated. When the district is notified of a subject individual who knowingly made a false statement as to the conviction of any crime, the individual ~~may~~ ~~will not~~ be employed or contracted with by the district, or if employed by the district ~~may~~ ~~will not~~ be terminated. A subject individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the district as provided by law ~~may~~ ~~will not~~ be employed or contracted with by the district. ~~A subject individual who knowingly made a false statement as to the conviction of any crime may will not be employed or contracted with by the district.~~

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

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

The service of a volunteer into a position identified by the district as requiring a nationwide fingerprint-based criminal records check including fingerprinting ~~may~~ ~~will not~~ begin ~~on a probationary basis~~

⁴ If the district requires fingerprinting for certain volunteer positions, the district is required to list those volunteer positions in board policy. The bracketed language is only possible examples; modify to identify the needs of positions in the district that require such fingerprinting.

pending ~~before~~ the return and disposition of ~~the nationwide~~ a state and national criminal records check ~~including based on~~ fingerprintings.

~~A subject individual~~ volunteer who knowingly made a false statement or has ~~been~~ a conviction of a 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.

~~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 law.

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 ~~and will be notified of such in writing by ODE~~ under ORS 183.413 – 183.470.

A volunteer ~~required to submit to a fingerprint based criminal records check~~ 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. ~~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~~ under ORS 183.413 – 183.470.

END OF POLICY

Legal Reference(s):

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|------------------------------|--|----------------------------------|
| ORS 181A.180 | ORS 336.631 | OAR 581-021-0501 |
| ORS 181A.230 | ORS 342.143 | OAR 581-022-2430 |
| ORS 326.603 | ORS 342.223 | OAR 584-050-0012 |
| ORS 326.607 | OAR 414-061-0010 – 061-0030 | |
| ORS 332.107 | OAR 581-021-0500 0510 – 021-0512 | |

Field Code Changed

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Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq. (2012).