

# OSBA Model Sample Policy

Code: GCDA/GDDA

Adopted:

## 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<sup>1</sup> not requiring licensure under Oregon Revised Statute (ORS) 342.223 to submit to a criminal records check and 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.

Pursuant to state law, a criminal records check or fingerprint-based criminal records checks shall be required of the following individuals<sup>2</sup>:

1. All individuals employed as or by a contractor ~~[, whether employed part-time or full-time,]~~ and considered by the district to have direct, unsupervised contact with students;
2. 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;
3. Any individual who is an employee of a public charter school and not requiring licensure under ORS 342.223; and
4. <sup>3</sup> ~~[~~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.

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<sup>1</sup> 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).

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

<sup>3</sup> ~~[~~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 criminal records checks on these volunteers.~~]~~

~~{~~The district shall require a fingerprint-based criminal records check for volunteers allowed direct, unsupervised contact with students, in the following positions<sup>4</sup>:

1. ~~{Head coach;}~~ *volunteer coaches*
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.]~~ *? e*

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 fingerprint information, only after the 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 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]~~ 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.

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 fingerprint-based criminal records check ~~{may}~~ ~~[will not]~~ begin ~~[on a probationary basis pending]~~ ~~{before}~~ the return and disposition of a state and national criminal records check based on fingerprints~~}~~

~~{~~A volunteer 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

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<sup>4</sup> [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 positions in the district that require such fingerprinting.]



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. ~~1~~

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 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.

END OF POLICY

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#### Legal Reference(s):

ORS 181A.180  
ORS 181A.230  
ORS 326.603  
ORS 326.607

ORS 332.107  
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

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