

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 ~~be required to undergo~~ submit to 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 shall be required to undergo a ~~nationwide~~ 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 ~~undergo~~ submit to a ~~nationwide~~ criminal records check and fingerprinting with TSPC.
4. Any ~~district~~ individual hired as or by a contractor ~~and its employees²~~, whether part-time or full-time,~~]~~ hired into a position having direct, unsupervised contact with students as determined by the ~~district~~ shall be required to ~~undergo~~ submit to a ~~nationwide~~ criminal records check and fingerprinting.

The superintendent or designee will identify district contractors who are present on district property and regularly interact with students and are subject to such requirements.

5. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services shall be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE), Child Care Division.
6. 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 ~~nationwide~~ criminal records check and fingerprinting.
7. Any individual who is an employee of a public charter school not requiring licensure under ORS 342.223 shall be required to undergo a ~~nationwide~~ criminal records check and fingerprinting.

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 contractor²s~~ and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

8. ~~{³[Any individual authorized~~ volunteer allowed by the district ~~for volunteer service~~ into a position allowing ~~that has~~ direct, unsupervised contact with students shall ~~be required to~~ undergo an ~~Oregon in-state~~ criminal records check.]
9. ~~{Any~~ volunteer allowed to have direct, unsupervised contact with students, ~~into~~ a volunteer position identified in Board policy⁴ by the district as requiring ~~fingerprinting~~ a fingerprint-based criminal records check, shall ~~be required to~~ undergo a ~~nationwide~~ state and national criminal records check ~~and fingerprinting~~ based on fingerprints.]
10. ~~{Any individual authorized by the district for~~ volunteer ~~service~~ that is not likely to have direct, unsupervised contact with students ~~{will}~~ ~~{will not}~~ be required to undergo an ~~Oregon in-state~~ criminal records check.]

Exceptions

A newly hired employee⁵ is not subject to fingerprinting if the district has evidence on file that the ~~newly hired~~ employee ~~was previously checked through an Oregon and a FBI~~ successfully completed a state and national criminal records check ~~by~~ 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.

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 shall be acceptable only in the event the district can demonstrate records are not otherwise available; and
2. The district shall maintain evidence that the employee has not resided outside the state during the interval between the two periods of time working in the district.

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 [or 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~~};~~

³ [If the district allows volunteers to have direct, unsupervised contact with students, districts are required to conduct criminal ~~background~~ records checks on these volunteers. Choose the bracketed language options in ~~87~~, ~~98~~ and/or ~~109~~ 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.]

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

⁵ Any individual hired within the last three months.

- 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~~{;}~~~~{.}~~
 - g. ~~{A volunteer candidate who knowingly made a false statement or has been a convicted} of any 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 ~~such~~ 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, ~~Any~~an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms ~~or requirements as approved by ODE (information available through the district)}~~ authorizing such checks and report to an authorized fingerprinter as directed by the district. The district shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
- ~~2. All individuals subject to fingerprinting pursuant to state law are required to report to an authorized fingerprinter for fingerprinting as directed by the district.~~
- ~~3.2.~~ 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.

~~The individual subject to fingerprinting, shall be subject only after acceptance of an offer of employment or contract.~~
- ~~4.3.~~ 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.
- ~~5.4.~~ 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}~~.
- ~~6.5.~~ 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 ~~and their employees~~, shall be paid by the ~~{individual}~~ ~~{district}~~.
2. ~~[Fees are payable [prior to] [within [three] working days of] beginning employment, volunteer service or contract.]~~
- 3.2. ~~[An individual offered a contract or employment in by the district may, only upon request, 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, the amount otherwise due the individual in accordance with Oregon law. The district may withhold such fees only upon the request of the individual.]~~
- 4.3. ~~[Fees associated with required criminal records checks for volunteers shall be paid by the {individual} {district}.]~~
- 5.4. ~~[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. Any 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 superintendent ~~district~~ upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁷ from the Superintendent of Public Instruction ~~or designee~~ that the employee has a conviction of any crimes ~~prohibiting employment with the district as specified by law~~ 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.
2. Any subject individual ~~required to submit to a criminal records check and/or fingerprinting in accordance with law [may] [will]~~ 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 designee~~ 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. ~~[Any volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit, when required, to a required criminal records check or a fingerprint-based criminal records check to acquire or maintain such a volunteer status in the district 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 an individual volunteer knowingly made a false statement or has a conviction of for any crimes listed in ORS~~

⁶ A person hired as or by a contractor²s 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.

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. ~~{Any}~~ 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 ~~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.