

Criminal Records Checks/Fingerprinting

To ensure the safety and welfare of students and staff, the ESD shall require all newly hired full-time and part-time employees not requiring licensure under Oregon Revised Statute (ORS 342.223) to submit to a criminal records checks and fingerprinting as required by law. Other individuals, as determined by the ESD, that will have direct, unsupervised contact with students shall submit to criminal records checks and fingerprinting, as established by Board policy and 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 and fingerprinting based criminal records checks shall be required of the following individuals:

1. All individuals employed as or by a contractor, whether employed part-time or full-time; and considered by the ESD to have direct, unsupervised contact with students.
2. Any college faculty member providing instruction at the site of an early childhood education program, or at a school site as part of an early education program; and
3. Any volunteer considered for volunteer service with the ESD who is allowed to have direct, unsupervised contact with students.

The ESD shall require a nationwide criminal records check based on fingerprinting for a volunteer with direct, unsupervised contact with students in the following positions:

1. Volunteers transporting students, other than their own, in a private vehicle off ESD property for an ESD-sponsored activity

The identity of a subject individual requiring fingerprinting will be provided by the ESD to the authorized finger printer for verification.

A subject individual shall be subject to fingerprinting only after acceptance of an offer of employment or contract.

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

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

A subject individual who knowingly made a false statement or has been convicted of a crime listed in ORS 342.143 will result in immediate termination from the ability to volunteer in the ESD.

The ESD shall not begin the employment of a subject individual or terms of an ESD contractor before the return and disposition of criminal records check.

The service of a volunteer will not begin before the return and disposition of a criminal records check.

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

The service of a volunteer in a position identified by the ESD as requiring fingerprinting will not begin before the return and disposition of a nationwide criminal records check through fingerprinting.

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 that prevents employment or eligibility to contract with the ESD to the Superintendent of Public Instruction as a contested case and will be notified of 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.

END OF POLICY

Legal Reference(s):

[ORS 181A.180](#)
[ORS 181A.230](#)
[ORS 326.603](#)
[ORS 326.607](#)
[ORS 334.125](#)

[ORS 336.631](#)
[ORS 342.127](#)
[ORS 342.143](#)
[ORS 342.223](#)
[OAR 414-061-0010 - 0030](#)

[OAR 581-021-0500](#)
[OAR 581-021-0502](#)
[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).