

Criminal Records Checks/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.
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 also 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 ESD 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. A volunteer allowed by the ESD into a position that has direct, unsupervised contact with students shall undergo an in-state criminal records check.

Exceptions

A newly hired employee is not subject to fingerprinting if:

1. The ESD has evidence that the person successfully completed a state and national criminal records check for a previous employer that was a school district, private school or ESD and has not resided outside the state between the two periods of employment; or
2. ³The Oregon Department of Education (ODE) determines the person;
 - a. Submitted to a criminal records check for the person's immediately previous employer, the employer is a school district or private school and the person has not lived outside this state between the two periods of employment;
 - b. Submitted to a criminal records check conducted by TSPC within the previous three years; or
 - c. Remained continuously licensed or registered with the commission

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 ESD 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 ESD.

³ This revision to TSPC rules sunsets July 1, 2024.

Notification

1. The ESD will provide the following notification to individuals subject to criminal records checks and fingerprinting:
 - a. Such criminal records checks and/or fingerprinting checks are required by law or Board policy;
 - b. Any action resulting from such checks completed by 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 required criminal records check and/or fingerprinting shall result in immediate termination from employment or contract status;
 - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts or ODE forms 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 convicted of any crime listed in ORS 342.143, or the substantial equivalent of any of these crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the ESD.
2. The ESD will provide the written notice described above through such means as staff handbooks, employment applications and contract forms.

Processing/Reporting Procedures

1. Any individual subject to criminal records checks and/or fingerprinting shall, as part of the application process, complete the appropriate forms as provided by ODE.
2. All the individuals subject to fingerprinting pursuant to state law, he/she will be required to report to an authorized finger printer for fingerprinting within such time period as required by the ESD. Fingerprints may be collected by one of the following:
 - a. Employing ESD staff;
 - b. Contracted agent of employing ESD;
 - c. Local or state law enforcement agency.

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

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the ESD will provide the name of the individual to be fingerprinted to the authorized finger printer and require that the individual submit a photo ID (driver's license or other) containing the individual's name and picture in order to verify the identity of the individual intended to be fingerprinted.
4. The authorized finger printer will obtain the necessary identification and fingerprinting and return the fingerprint cards to the ESD in the envelope provided. The Fingerprint Criminal History Verification form and fingerprint cards will be sent to ODE. A copy of the form will be kept in the employee's personnel file.
5. A copy of the fingerprinting results will be kept by the ESD.

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the ESD and not requiring licensure, including contractors and their employees and volunteers shall be paid by the individual.
2. Individuals may 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, in accordance with Oregon law. The ESD may withhold such fees only upon the request of the individual.

Termination of Employment

1. Any individual required to submit to criminal records checks and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status by the superintendent immediately upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁴ by the Superintendent of Public Instruction or designee or the State Board of Education that the employee has made a false statement as to conviction of a crime or conviction of crimes prohibiting employment with the ESD as specified by law.
2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law 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 ESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of the Accountability for Schools for the 21st Century Law. Dismissal procedures, appeals, and the provisions of the Accountability for Schools for the 21st Century Law.
4. Any volunteer allowed to have direct, unsupervised contact with students that refuses to submit to a required criminal records check to acquire or maintain such a volunteer status in the ESD in accordance with law and/or Board policy will be denied such ability to volunteer in the ESD.

Appeals

A subject individual may appeal a determination from ODE, which prevents employment or eligibility to contract with the ESD 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 check by ODE that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

⁴ 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.