

# South Coast Education Service District

Code: **GCDA/GDDA-AR**

Adopted: 1/13/15

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## **Criminal Records Checks and Fingerprinting**

### **Requirements**

1. Any individual newly hired employee<sup>1</sup>, 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. Staff will be required to follow any additional state and federal program fingerprinting requirements. Other individuals, as determined by the ESD, 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.
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 contractor<sup>2</sup>, 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.

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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 ESD has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> 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.

6. <sup>3</sup>A volunteer allowed to have direct, unsupervised contact with students, into a volunteer position identified in Board policy<sup>4</sup> by the ESD as requiring a finger-print based criminal records check, shall undergo a state and national criminal records check based on fingerprints.

### **Exceptions**

A newly hired employee<sup>5</sup> is not subject to fingerprinting if the ESD has evidence on file that the employee 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. Staff will be required to follow any additional state and federal program fingerprinting requirements

### **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 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 ESD];
  - 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 [(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 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 jurisdiction or in Oregon under a different statutory name or number may result in immediate termination from the ability to volunteer in the ESD. The ESD may remove the volunteer from the position allowing direct, unsupervised contact with students.
2. The ESD will provide the written notice described above through means such as staff handbooks, employment applications, contracts or volunteer forms.

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<sup>3</sup> If the ESD allows volunteers to have direct, unsupervised contact with students, ESDs are required to conduct criminal records checks on these volunteers.

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

<sup>5</sup> Any individual hired within the last three months.

## **Processing and Reporting Procedures**

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized finger printer as directed by the ESD. The ESD shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
2. Fingerprints may be collected by one of the following:
  - a. Employing ESD staff;
  - b. Contracted agent of employing ESD; or
  - c. Local or state law enforcement agency.
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.
4. The authorized finger printer will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the ESD 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].
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 persons hired as or by contractors<sup>6</sup>, shall be paid by the individual.
2. An individual offered a contract or employment by the ESD may, only upon request, request that the amount of the fee be withheld from the amount otherwise due the individual in accordance with Oregon law.
3. Fees associated with required criminal records checks for volunteers shall be paid by the ESD.
4. Fees associated with a required fingerprinting for volunteers shall be paid by the individual.

## **Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status**

1. A 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 ESD upon:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or

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<sup>6</sup> 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.

- b. Notification<sup>7</sup> from the Superintendent of Public Instruction that the employee has a conviction of any 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,.
2. A subject individual [may] [will] be terminated from employment or contract status upon notification from the Superintendent of Public Instruction 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.
4. A volunteer who refuses to submit, when required, to criminal records check or a fingerprint-based criminal records check in accordance with law and/or Board policy will be denied such ability to volunteer in the ESD.
5. [If the ESD has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for any 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, the individual [will] [may] be denied the ability to volunteer.]
6. A volunteer who knowingly makes a false statement, as determined by the ESD, on an ESD volunteer application form may be denied the ability to volunteer in the ESD.

## **Appeals**

A subject individual may appeal a determination from ODE, that 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.

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<sup>7</sup> 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.