

DIVISION 7

CRIMINAL RECORDS CHECK RULES

471-007-0200

Statement of Purpose and Statutory Authority

(1) Purpose. These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual (SI) is fit to provide services to the Department as an employee, contractor, subcontractor, vendor or volunteer in a position or assignment covered by ORS 181A.200.

Stat. Auth.: ORS 181A.195, 181A.200

Stats. Implemented: ORS 181A.195

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0210

Definitions

(1) "Authorized Designee" means a Department employee authorized to obtain and/or review criminal offender information and other records about a subject individual through criminal records checks and other means, and to conduct a fitness determination in accordance with these rules.

(2) "Department" means the Oregon Employment Department (OED) or any subdivision thereof.

(3) "Family Member" means a spouse, domestic partner, natural parent, foster parent, adoptive parent, stepparent, child, foster child, adopted child, stepchild, sibling, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(4) "Subject Individual" means an individual identified in ORS 181A.200 as someone from whom the Department may require fingerprints for the purpose of conducting a criminal records check.

(5) See OAR 125-007-0210 for additional definitions.

Stat. Auth.: ORS 181A.195, 181A.200 184.340 & 184.365

Stats. Implemented: ORS 181A.195

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0285

Agency Representation

The Director shall designate an authorized representative of the department to participate in hearings conducted pursuant to OAR 125-007-0270.

Stat. Auth.: ORS 181A.195, 657.610

Stats. Implemented: ORS 181A.195

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0300

Authorized Designees

(1) Appointment.

(a) The Department Director or the Director's designee shall designate positions within the Department as including the responsibilities of an authorized designee.

(b) Appointment to one of the designated positions shall be contingent upon an individual being approved under the Department's criminal records check and fitness determination process.

(c) Appointments shall be made by the Department Director or the Director's designee at his or her sole discretion.

(2) The Department Director and Deputy Director may also serve as authorized designees, contingent on being approved under the Department's criminal records check and fitness determination process.

(3) Conflict of Interests. An authorized designee shall not participate in a fitness determination or review any information associated with a fitness determination for a subject individual if either of the following is true:

(a) The authorized designee is a family member of the subject individual; or

(b) The authorized designee has a financial or close personal relationship with the subject individual. If an authorized designee is uncertain of whether a relationship with a subject individual qualifies as a financial or close personal relationship under this subsection (b), the authorized designee shall consult with his or her supervisor prior to taking any action that would violate this rule if such a relationship were determined to exist.

(4) Termination of Authorized Designee Status.

(a) When an authorized designee's employment in a designated position ends, his or her status as an authorized designee is automatically terminated.

(b) The Department shall suspend or terminate a Department employee's appointment to a designated position within the Department, and thereby suspend or terminate his or her status as an authorized designee, if the employee fails to comply with OAR 471-007-0200 through 471-007-0290 in conducting criminal records checks and fitness determinations.

(c) An authorized designee shall immediately report to his or her supervisor if he or she is arrested for or charged with, is being investigated for, or has an outstanding warrant or pending indictment for a crime listed in OAR 125-007-0270. Failure to make the required report is grounds for termination of the individual's appointment to a designated position within the Department, and thereby termination of his or her status as an authorized designee.

(d) The Department will review and update an authorized designee's eligibility for service in a designated position within the Department. As part of a review or update, a new criminal records check and fitness determination may be required:

(A) Every three years; or

(B) At any time the Department has reason to believe that the authorized designee has violated these rules or no longer is eligible to serve in his or her current position within the Department.

(5) A denial under OAR 125-007-0260 related to a designated position within the Department is subject to the appeal rights provided under OAR 125-007-300.

Stat. Auth.: ORS 181A.195, 181A.200

Stats. Implemented: ORS 181A.195

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0310

Fees

(1) The Department may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the Department by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

(2) The Department may charge the fee to the subject individual on whom criminal offender information is sought, or, if the subject individual is an employee of a Department contractor or vendor and is undergoing a fitness determination in that capacity, the Department may charge the fee to the subject individual's employer.

(3) The Department shall not charge a fee if the subject individual is a Department employee or an applicant for employment with the Department.

Stat. Auth.: ORS 181A.195, 181A.200

Stats. Implemented: ORS 181A.195

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10