

Non-employment fingerprint-based criminal history for school districts 581-021-0501

(1) Definitions – As used in this rule, the following definitions apply:

- (a) “DAS” means State of Oregon, Department of Administrative Services;
- (b) “DOB” means date of birth;
- (c) “Direct, unsupervised contact with students” means contact with students that provides opportunity and probability for communication or touch when not under direct supervision;
- (d) “FBI” means the Federal Bureau of Investigations;
- (e) “Knowingly made a false statement” means that a subject individual:
 - (A) Does not disclose the conviction of a felony;
 - (B) Does not disclose the conviction of a misdemeanor within the previous 20 years; or
 - (C) Provides any other false information to ODE as part of the background check process.
- (f) “LEDS” means the Law Enforcement Data System;
- (g) “ODE” means the Oregon Department of Education;
- (h) “OSP” means the Oregon State Police;
- (i) “School District” means:
 - (A) A school district as defined in ORS 330.005;
 - (B) The Oregon School for the Deaf;
 - (C) An educational program under the Youth Corrections Education Program;
 - (D) A public charter school as defined in ORS 338.005; and
 - (E) An education service district.
- (j) “Subject individual” means:
 - (A) A volunteer with a school district; or
 - (B) An applicant for employment for a school district.
- (k) “SSF” means State School Fund.

(2) School districts that have volunteers that have direct unsupervised contact with students shall have a policy requiring those volunteers to undergo a background check.

(3) State criminal history check based on name and DOB:

(a) A school district may submit a request to ODE for an in-state background check based on name and DOB on any subject individual. Requests shall:

(A) Use forms provided by ODE;

(B) Include an authorization from the volunteer for ODE to perform a background check; and

(C) Include payment of the processing fee of \$5 per person to be checked.

(b) A name and DOB criminal history check conducted in accordance with this section will be an in-state check in LEDS per ODE's non-criminal justice agency agreement with OSP.

(4) State and Nationwide criminal history check based on fingerprints:

(a) A school district may submit a request to ODE for a fingerprint-based criminal history check for subject individuals identified in local board policy as requiring a fingerprintbased criminal history check.

(b) Requests shall be submitted electronically through the statewide vendor identified by DAS. Exemptions from this requirement may be granted by ODE on an individual basis. Reasons for exemption include, but are not limited to, geographic location and ability for vendor to meet needs.

(c) School districts exempted from the electronic process indicated in subsection (a) of this section shall submit fingerprints on forms provided by ODE;

(d) A fee of \$59 will be:

(A) Deducted from the SSF payment for school districts that receive SSF payments; or

(B) Invoiced to the school district for school districts that do not receive SSF payments.

(e) A fingerprint-based criminal history check conducted in accordance with this section will be a state and national check through OSP and FBI.

(5) ODE shall review the criminal history when a request is made under section (3) or (4) of this rule, make a fitness determination, and notify the school district of that determination.

(a) A subject individual does not meet the fitness standards of this rule if the individual has:

(A) Been convicted of a crime listed in ORS 342.143; or

(B) Knowingly made a false statement.

(b) ODE shall not provide copies of criminal records to anyone except as provided by law.

(6) Subject individuals may appeal a fitness determination resulting from a fingerprint-based criminal history under section (4) of this rule as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(7) Notwithstanding the fitness determination made by ODE pursuant to this rule, a school district may allow a volunteer that has undergone a background check to have direct, unsupervised contact with school children.

Non-employment fingerprint-based criminal history for private schools 581-021-0503

(1) Definitions – As used in this rule, the following definitions apply:

(a) “DAS” means State of Oregon, Department of Administrative Services;

(b) “DOB” means date of birth;

(c) “Direct, unsupervised contact with students” means contact with students that provides opportunity and probability for communication or touch when not under direct supervision;

(d) “FBI” means the Federal Bureau of Investigations;

(e) “Knowingly made a false statement” means that a subject individual:

(A) Does not disclose the conviction of a felony;

(B) Does not disclose the conviction of a misdemeanor within the previous 20 years; or

(C) Provides any other false information to ODE as part of the background check process.

(f) “LEDS” means the Law Enforcement Data System;

(g) “ODE” means the Oregon Department of Education;

(h) “OSP” means the Oregon State Police

(i) “Private school” means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, dram, music, religious or athletic instruction.

(j) "Subject individual" means:

(A) A volunteer with a private school; or

(B) An applicant for employment for a private school.

(2) Private schools that have volunteers that have direct unsupervised contact with students may have a policy requiring those volunteers to undergo a background check.

(3) State criminal history check based on name and DOB:

(a) A private school may submit a request to ODE for an in-state background check based on name and DOB on any subject individual. Requests shall:

(A) Use forms provided by ODE;

(B) Include an authorization from the volunteer for ODE to perform a background check; and

(C) Include payment of the processing fee of \$5 per person to be checked.

(b) A name and DOB criminal history check conducted in accordance with this section will be an in-state check in LEDS per ODE's non-criminal justice agency agreement with OSP.

(4) State and Nationwide criminal history check based on fingerprints:

(a) A private school may submit a request to ODE for a fingerprint-based criminal history check for subject individuals identified in local policy as requiring a fingerprint-based criminal history check.

(b) Requests shall be submitted electronically through the statewide vendor identified by DAS. Exemptions from this requirement may be granted by ODE on an individual basis. Reasons for exemption include, but are not limited to, geographic location and ability for vendor to meet needs.

(c) Private schools exempted from the electronic process indicated in subsection (a) of this section shall submit fingerprints on forms provided by ODE;

(d) A fee of \$59 will be Invoiced to the private school;

(e) A fingerprint-based criminal history check conducted in accordance with this section will be a state and national check through OSP and FBI.

(5) ODE shall review the criminal history when a request is made under section (3) or (4) of this rule, make a fitness determination and notify the private school of that determination.

(a) A subject individual does not meet the fitness standards of this rule if the individual has:

(A) Been convicted of a crime listed in ORS 342.143; or

(B) Knowingly made a false statement.

(b) ODE shall not provide copies of criminal records to anyone except as provide by law.

(6) Subject individuals may appeal a fitness determination resulting from a fingerprint-based criminal history under section

(4) of this rule as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(7) Notwithstanding the fitness determination made by ODE pursuant to this rule, a private school may allow a volunteer that has undergone a background check to have direct, unsupervised contact with school children.