

326.603 Authority of school districts and schools to obtain fingerprints and criminal records check of employees and contractors; fee.

(1) For the purposes of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Education may require the fingerprints of:

(a) A school district or private school contractor, whether part-time or full-time, or an employee of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(b) A person newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1).

(c) A person who is a community college faculty member providing instruction:

(A) At the site of an early childhood education program or at a school site as part of an early childhood education program; or

(B) At a kindergarten through grade 12 school site during the regular school day.

(d) A person who is an employee of a public charter school.

(2) (a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1) of this section.

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1)(a), (b) or (c) of this section.

(3) The Department of Education shall request that the Department of State Police conduct a criminal records check as provided in ORS 181A.195 and may charge the school district or private school a fee as established by rule under ORS 181A.195. The school district or private school may recover its costs or a portion thereof from the person described in subsection (1) of this section. If the person described in subsection (1)(b) or (d) of this section requests, the school district shall and a private school may withhold the amount from amounts otherwise due the person, including a periodic payroll deduction rather than a lump sum payment.

(4) Notwithstanding subsection (1) of this section, the Department of Education may not require fingerprints of a person described in subsection (1) of this section if the person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school.

(5) Nothing in this section requires a person described in subsection (1)(a), (b) or (d) of this section to submit to fingerprinting until the person has been offered employment or a contract by

a school district or private school. Contractor employees may not be required to submit to fingerprinting until the contractor has been offered a contract.

(6) If a person described in subsection (1) of this section states on a criminal history form provided by the Department of Education that the person has not been convicted of a crime but the criminal records check indicates that the person has a conviction, the department shall determine whether the person knowingly made a false statement as to the conviction. The department shall develop a process and criteria to use for appeals of a determination under this subsection.

(7) (a) The Superintendent of Public Instruction shall inform a school district or private school if a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of any crime.

(b) If a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3), a school district may not employ or contract with the person and a private school may choose not to employ or contract with the person. Notification by the superintendent that the school district may not employ or contract with the person shall remove the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(c) If a person described in subsection (1) of this section has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of a crime not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract with the person.

(8) If a person described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted, the school district shall terminate the employment or contract status of the person. Termination under this subsection removes the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(9) A school district may not hire or continue to employ or contract with or allow the contractor to continue to assign a person to the school project if the person described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(10) As used in this section and ORS 326.607:

(a) "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, drama, music, religious or athletic instruction.

(b) “School district” means:

(A) A school district as defined in ORS 330.003.

(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.

(E) An education service district.

[1993 c.674 §8; 1995 c.67 §40; 1995 c.446 §7; 1997 c.4 §1; 1997 c.536 §1; 1997 c.753 §2; 1999 c.200 §25; 1999 c.1054 §4; 2001 c.407 §4; 2005 c.730 §13; 2007 c.35 §1; 2007 c.858 §63; 2009 c.437 §1; 2009 c.562 §20; 2011 c.301 §5; 2013 c.26 §1]