

# POTENTIALLY DISQUALIFYING CONVICTION LIST

If you have criminal history, it is potentially disqualifying based on how long ago it occurred.

If you have something potentially disqualifying, BCU does a weighing test to make a fitness determination.

❖ **FIVE YEAR CRIMES:** Two or more convictions of ORS 813.010 (Driving under the Influence of Intoxicants (DUI)) or 830.325 (Operating Boat while under Influence of Intoxicants (BUI)) or a misdemeanor conviction under a law in any jurisdiction that imposes criminal penalties for operating a vehicle or boat while under the influences of intoxicants, if both convictions occur within five years from the date of the background check submission.

❖ **TEN YEAR CRIMES:** Conviction of any misdemeanor or felony, in any jurisdiction, not listed as 5-year or permanent, if the conviction occurred within 10 years from the date of the background check submission. Includes attempt, solicitation or conspiracy for any crime in this category.

❖ **PERMANENT REVIEW CRIMES:** Conviction for any crime listed below or substantial equivalent of any Oregon crime in other jurisdictions. Includes attempt, solicitation or conspiracy to commit for any crime in this category. Note: if you are subject to ORS 443.004; a conviction for any crime in this category may result in Ineligibility for the position this background check is for.\*

Abandonment of a child [ORS 163.535]  
Aggravated animal abuse I [ORS 167.322]  
Aggravated identity theft [ORS 165.803]  
Aggravated murder [ORS 163.095]  
Aggravated theft I [ORS 164.057]  
Aggravated vehicular homicide [ORS 163.149]  
Animal abuse I [ORS 167.320]  
Arson I [ORS 164.325]  
Assault I [ORS 163.185]  
Assault II [ORS 163.175]  
Assault III [ORS 163.165]  
Burglary I [ORS 164.225]  
Burglary II [ORS 164.215]  
Buying or selling a person under 18 yrs. [ORS 163.537]  
Child neglect I [ORS 163.547]  
Coercion [ORS 163.275]  
Compelling prostitution [ORS 167.017]  
Computer crime [ORS 164.377]  
Contributing to sex. delinquency of minor [ORS 163.435]  
Criminal mistreatment I [ORS 163.205]  
Criminal mistreatment II [ORS 163.200]  
Criminal possession of a forged instrument I [ORS 165.022]  
Criminal possession of a forgery device [ORS 165.032]  
Criminally negligent homicide [ORS 163.145]  
Encouraging child sexual abuse I [ORS 163.684]  
Encouraging child sexual abuse II [ORS 163.686]  
Encouraging child sexual abuse III [ORS 163.687]  
Forgery I [ORS 165.013]  
Identity theft [ORS 165.800]  
Incest (if with a child victim) [ORS 163.525]  
Invasion of personal privacy I [ORS 163.701]  
Invasion of personal privacy II [ORS 163.700]  
Kidnapping I [ORS 163.235]  
Kidnapping II [ORS 163.225]  
Luring a minor [ORS 167.057]  
Manslaughter I [ORS 163.118]  
Manslaughter II [ORS 163.125]  
Murder I [ORS 163.107]  
Murder II [ORS 163.115]  
Online sexual corruption of a child I (If the offender believed the child to be 5 years younger than the offender) [ORS 163.433]  
Online sexual corruption of a child II (If the offender believed the child to be 5 years younger than the offender) [ORS 163.432]  
Organized retail theft [ORS 164.098]

Paying for viewing child's sexual conduct [ORS 163A.005]  
Poss. child sexually explicit materials I [ORS 163.688]  
Poss. child sexually explicit materials II [ORS 163.689]  
Private indecency [ORS 163.467]  
Promoting prostitution [ORS 167.012]  
Public indecency [ORS 163.465]  
Purchasing sex with a minor (If the court designates as a sex crime or is a second or subsequent offense) [ORS 163.413]  
Rape I [ORS 163.375]  
Rape II [ORS 163.365]  
Rape III [ORS 163.355]  
Robbery I [ORS 164.415]  
Robbery II [ORS 164.405]  
Sexual abuse I [ORS 163.427]  
Sexual abuse II [ORS 163.425]  
Sexual abuse III [ORS 163.415]  
Sexual assault of animal [ORS 167.333]  
Sexual misconduct (the offender is at least age 18) [ORS 163.445]  
Sodomy I [ORS 163.405]  
Sodomy II [ORS 163.395]  
Sodomy III [ORS 163.385]  
Strangulation [ORS 163.187]  
Subjecting person to invol. servitude I [ORS 163.264]  
Subjecting person to invol. servitude II [ORS 163.263]  
Theft I [ORS 164.055]  
Theft of services [ORS 164.125]  
Trafficking in persons [ORS 163.266]  
Transporting child pornography into state [ORS 163A.005]  
Unlawful sexual penetration I [ORS 163.411]  
Unlawful sexual penetration II [ORS 163.408]  
Using a child in display of sexually explicit conduct [ORS 163.670]

## Drug Crimes:

All Manufacture/Delivery statutes & crimes [ORS Ch. 475]  
Application of controlled substance to the body of another person [ORS 475.910]  
Administration to another person under 18 years of age [ORS 475C.349]  
Causing another person to ingest a controlled substance [ORS 475.908]  
Penalties for distribution to minors [ORS 475.906]  
Prohibited acts for registrants (with Board of Pharmacy) [ORS 475.914]  
*NOTE: a conviction related to marijuana is not PDQ if the charge is no longer a criminal offense*

# POTENTIALLY DISQUALIFYING CRIMINAL CONDITIONS

**If you have something potentially disqualifying, BCU conducts a weighing test to make a fitness determination.**

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## Potentially Disqualifying Conditions related only to Permanent Review Crimes:

- Outstanding warrant in any jurisdiction
- Deferred sentence, conditional discharge, or participating in a diversion program
- An unresolved arrest, charge or a pending indictment
- Arrest in any jurisdiction as a fugitive from another state or a fugitive from justice for a permanent review crime that results in a potentially disqualifying conviction or condition.
- Adjudication in a juvenile court in any jurisdiction with a finding that the subject individual was responsible for a permanent review crime that would result in a conviction if committed by an adult
- A finding of “guilty except for insanity” for a crime

## ❖ Potentially Disqualifying Conditions Related to all Five Year/Ten Year/Permanent Review Crimes:

- Currently on probation, parole, or post-prison supervision for a potentially disqualifying conviction
- A violation of post-prison supervision, parole, or probation for a potentially disqualifying conviction if within 5 years from the date of the fitness determination
- Registration as sex offender in any jurisdiction (note: This condition may be due to a juvenile adjudication).

## Mandatory Exclusion Notes:

\* Being Subject to ORS 443.004. If you are subject to ORS 443.004, you may be found Ineligible for the position the background check is for. ORS 443.004 does not allow any public funds to be used to support, in whole or in part, the employment in any capacity of an individual who has a conviction for one or more permanent review convictions listed on this flyer. Individuals subject to ORS 443.004 include:

- Employees of home health or in-home care agencies providing care or having direct contact with a client
- Employees of any program, agency, residential facility or home for individuals with Intellectual or Developmental Disabilities, including personal support workers.
- Homecare workers for Aging and People with Disabilities (APD)
- Employees of APD residential care facilities, assisted living facilities, or adult foster homes (nursing facilities are not subject to ORS 443.004)
- Any mental health/behavioral health services, including peer support specialists (substance abuse treatment providers are also subject): The mandatory exclusion convictions for this group only include Aggravated murder, Murder I, Murder II, Rape I, Sodomy I, Unlawful sexual penetration I or Sexual abuse I.

Under certain circumstances, you may be allowed to stay with your employer. More details about ORS 443.004 are in the in the authorization and disclosure you read when authorizing a background check.

Office of the Inspector General (OIG) Exclusion List. Certain convictions place people on the OIG list, also known as the List of Excluded Individuals and Entities. If you are on the list, you are ineligible for many different positions working or volunteering:

- In-home care agencies or home health agencies
- Any residential facility or home for Aging and People with Disabilities
- Adult foster homes for individuals with Intellectual or Developmental Disabilities
- Homecare workers or personal support workers
- Individuals with Traditional Health Worker certificates

You can check to see if you are on the list at <https://exclusions.oig.hhs.gov/>.