Administrative regulation GCDA/GDDA-AR - Criminal records checks/fingerprinting

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Amity School District 4J

Code: GCDA/GDDA-AR

Adopted: 3/14/94

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Requirements

1. Any individual newly hired, whether full-time or part-time, and not requiring licensure as a teacher, administrator, personnel specialist or school nurse shall be required to undergo a nationwide criminal records check and fingerprinting.
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 be required to undergo a nationwide 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 undergo a nationwide criminal records check and fingerprinting with TSPC.
4. Any district contractor and its employees (footnote a), whether part-time or full-time, hired into a position having direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting.
5. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services shall be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE), Child Care Division.
6. Any community college faculty member providing instruction at the site of an early childhood education program or at 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 nationwide criminal records check and fingerprinting.
7. Any individual who is an employee of a public charter school not requiring licensure shall be required to undergo a nationwide criminal records check and fingerprinting.

The superintendent will identify district contractors who are present on district property and regularly interact with students and are subject to such requirements.

Footnote a: A contractor's employee may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

8. Any individual authorized by the district for volunteer service into a position allowing direct, unsupervised contact with students shall be required to undergo an Oregon criminal records check (footnote b).
9. Any volunteer allowed to have direct, unsupervised contact with students, in a volunteer position identified in Board policy (footnote c) by the district as requiring fingerprinting, shall be required to undergo a nationwide criminal records check and fingerprinting.
10. Any individual authorized by the district for volunteer service that is not likely to have direct, unsupervised contact with students will be required to undergo an Oregon criminal records check.

Exceptions

A newly hired employee is not subject to fingerprinting if the district has evidence on file that the newly hired employee was previously checked through an Oregon and a FBI criminal records check by a previous employer that was a school district.

Evidence of the prior check will be either a copy of the criminal records check or a written statement of verification from a supervisor or officer of the previous employer.

Furthermore:

1. The ODE or TSPC verification of a previous check shall be acceptable only in the event the district can demonstrate records are not otherwise available; and
2. The district shall maintain evidence that the employee has not resided outside the state during the interval the two periods of time working in the district.

Notification

1. The district will provide the following notification to individual subject to criminal records checks and/or fingerprinting:

a. Such criminal records checks and/or fingerprinting are required by law or Board policy;

b. Any action resulting from such checks that impact employment, contract or volunteering may be appealed as a contested case;

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 checks and/or fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the district;

e. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts, ODE forms (written or electronic) will result in immediate termination from employment, 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 been convicted of any crime listed in ORS 342.143 will result in immediate termination from the ability to volunteer in the district. The district will remove the volunteer from the position allowing direct, unsupervised contact with students.

2. The district will provide the written notice described above through such means as employment applications, contracts or volunteer forms.

Footnote b: If the district allows volunteers to have direct, unsupervised contact with students, districts are required to conduct criminal background checks on these volunteers.

Footnote c: See policy GCDA/GDDA – Criminal Records Checks and Fingerprinting.

Processing and Reporting Procedures

1. Any individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms or requirements as approved by ODE (information available through the district).
2. All individuals subject to fingerprinting pursuant to state law are required to report to an authorized finger printer for fingerprinting as directed by the district.

Fingerprints may be collected by one of the following:

- a. Employing district staff;
- b. Contracted agent of employing district; or
- c. Local or state law enforcement agency.

The individual subject to fingerprinting, shall be subject only after acceptance of an offer of employment or contract.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district 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 notify the district of said results as well as the identity of any individual it believes has knowingly made a false statement, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment, contract or volunteering.
5. A copy of the fingerprinting results will be kept by the district.

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including contractors (footnote d) and their employees, shall be paid by the individual.
2. Fees are payable within the first two pay periods of beginning employment, unsupervised volunteer service or contract.

Footnote d: A contractor's employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

3. An individual offered employment in the district may request that the amount of the fee be withheld from the employee's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with Oregon law. The district may withhold such fees only upon the request of the individual.
4. Fees associated with required criminal records checks for volunteers shall be paid by the district.
5. 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. Any individual required to submit to a criminal records checks 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 superintendent upon:

a. Refusal to consent to a criminal records check and/or fingerprinting; or

b. Notification from the Superintendent of Public Instruction or designee that the employee has a conviction of crimes prohibiting employment with the district as specified by law.

2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the superintendent upon notification from the Superintendent of Public Instruction or his/her designee 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 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. Any volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit to a required, criminal records check to acquire or maintain such a volunteer status in the district in accordance with law and/or Board policy will be denied such ability to volunteer in the district.
5. If the district has been notified by the Superintendent of Public Instruction that an individual knowingly made a false statement or has a conviction of any crime listed in ORS 342.143 the individual will be denied the ability to volunteer.
6. Any volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form will be denied the ability to volunteer in the district.

Appeals

An individual may appeal a determination that prevents employment or eligibility to contract with the district, to the Superintendent of Public Instruction as a contested case and will be notified of such in writing by ODE.

A volunteer required to submit to a fingerprint-based criminal records check may appeal a determination that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case, if the results of the background check were provided by ODE or ODE’s vendor and will be notified of such in writing by ODE.