



**5.10.141-AD Fingerprinting and Criminal History Verification Procedures for Non-Licensed Personnel**

**I.** To implement District policy stated in 5.10.140-P, the District will follow these procedures in requiring a fingerprint based-criminal history verification with the Department of Education (ODE) and a preliminary Portland Public Schools (PPS) criminal history verification. These procedures apply to all employees, volunteers, and contractors not requiring licensure as Teachers, Administrators, Personnel Specialists, or School Nurses.

**II. General Definitions** for the purposes of this directive:

- (1) "Employee" means:
  - (a) Any person currently employed, either part time or full time.
- (2) "Volunteer" means:
  - (a) Any person assisting school staff or working on PPS property, who is not an employee and who does not receive payment for their work and who may, in the opinion of the Principal, have opportunity for direct, unsupervised contact with students.
- (3) "Contractor" means:
  - (a) Any person who contracts with or who is an employee of a person or business who contracts with the District to provide services or products for the District.
- (4) "Conviction of a crime" means:
  - (a) Any adjudication in any criminal court of law, in this state or any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.
  - (b) Any adjudication in a juvenile proceeding, in this state or any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143(3).
  - (c) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

- (d) Any plea of guilty, no contest in connection with a crime, in this state or in any other jurisdiction.
  - (e) A conviction does not exist where a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment or where an individual was granted a full pardon by executive order of the Governor of this state. A conviction does exist for purposes of this rule even if a crime was pardoned by executive order in another jurisdiction, unless the Superintendent of Public Instruction determines that the pardon issued by the other jurisdiction is the equivalent of a full pardon by executive order in this state.
  - (f) A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual. A conviction does exist for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon.
  - (g) Except as noted above, a conviction does not exist only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication, or plea is overturned by an appellate court of record and no later conviction, adjudication, or pleas indicating the individual committed the offense in question is on the record
- (5) "Applicant" means:
- (a) Any person for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review.
- (6) "Newly hired" means:
- (a) The employment of a person after application or request for a position without regard to that person's current or previous employer.
- (7) "Direct, unsupervised contact with students" means:
- (a) Contact with students that provides the person opportunity and probability for personal communication or touch when not under the direct supervision of school personnel.

(8) "Preliminary Criminal History Verification" means:

- (a) Verification of potential criminal history by checking name, date of birth, and social security number against law enforcement and consumer reporting databases in all jurisdictions in which the applicant has resided in the past ten years.

(9) "Volunteer Criminal History Screening" means:

- (a) Verification of potential criminal history by checking name and date of birth against law enforcement and non-law enforcement databases.

### **III. Notice**

District employment postings shall contain the notification that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

### **IV. Security Services**

Security Services is the department primarily responsible for ensuring preliminary criminal history verifications are processed and conducted.

- (a) Security Services shall complete the Preliminary Criminal History Verifications for contractors or employees prior to the first day the contractor or employee begins work.
- (b) Departments must submit the PPS Criminal History Verification form to Security Services at least five (5) working days prior to the start date of contract or employment. In some instances, records from other states may take longer than 5 days to obtain.

### **V. Conditions Which May Affect Employment**

(1) Conviction of a Crime

- (a) Applicants, employees, or contractors who have been convicted of any of the crimes listed in ORS 342.143(3) shall be refused continued employment or have employment terminated when such notification is received by the District.
- (b) Prior to making a determination that results in a notice and opportunity for hearing, ODE may undertake an investigation. The employee, applicant, or contractor and the District shall cooperate

with this investigation and may be required to provide oral or written statements.

- (c) Persons may appeal a determination which prevents their employment or eligibility to contract with the District as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.
- (2) Refusal to Consent
  - (a) Employees or contractors who refuse to consent to the criminal records check or refuse to be fingerprinted will be terminated from employment or contract or have their job offer rescinded by the District.
- (3) Falsification of Statement as to Criminal Conviction(s)
  - (a) Applicants, newly hired employees, employees, and contractors who have made false statements as to the conviction of a crime may, at the District's sole discretion, be refused continued employment, or have employment terminated or, in the instance of contractors, be prohibited from continuing to work on District contracts, when such notification is received by the District.

### **VI. Employee Fingerprinting Requirement**

- (1) All employees shall be required to undergo a fingerprint-based criminal history verification at the time of employment.
- (2) Any employee, regardless of previous tenure, having a break in service with the District and then returning to employment with the District, shall undergo an Oregon and FBI fingerprint-based criminal records check if they resided outside the state between the two periods of employment.
- (3) Employment may be offered prior to collecting fingerprint cards for submission to the Department of Education.
- (4) Security Services, or an approved agency designated by Security Services, will perform preliminary criminal background checks prior to the first day of work and prior to the criminal records check by the FBI and Oregon State police. Once a preliminary criminal background check has been conducted by Security Services or its designee, employees may begin employment on a probationary basis, pending the return of the fingerprint-based criminal record check from ODE.

- (5) Newly hired or re-hired teachers, administrators, and other persons licensed under the Teacher Standards and Practices Commission are exempt from the ODE fingerprint-based criminal history verification provided their license is current or an application is in process. Security Services will perform preliminary criminal history checks on all licensed applicants.

### **VII. Contractor Fingerprinting Requirement**

- (1) All contractors who may have direct, unsupervised contact with students must undergo a fingerprint-based criminal history verification and have the appropriate ODE Form 2283 (Oregon Department of Education Criminal History Verification Form) on file with the District.
- (2) Contractors shall undergo a fingerprint-based criminal history verification at least every three years.
- (3) Security Services will perform Preliminary Criminal History Verifications prior to the first day of work and prior to the criminal records check by the FBI and Oregon State police. Once a Preliminary Criminal History Verification has been conducted, contractors may begin to carry out terms of the contract on a probationary basis, pending the return of the fingerprint-based criminal history verification from ODE.

### **VIII. Volunteer Criminal History Screening Requirement**

#### **A. General Guidelines**

- (1) In order to maintain a safe environment for students, staff, and our community, Portland Public Schools conducts criminal history screening on all individuals who want to volunteer to provide services in District schools or in the presence of District students.
- (2) All volunteers are presumed to have the potential to have direct, unsupervised contact with students and must undergo criminal history screening every three years which will be conducted by Security Services. Individuals who have not had their criminal history verified by Security Services are not allowed to volunteer.
- (3) Individuals wishing to volunteer may complete an online application. In addition, paper forms in several languages should be available within schools for individuals that do not have the use of a computer or do not read/write in English.
- (4) The District reserves the right to deny volunteer privileges to persons based on the nature and recentness of crimes and

overall criminal record. Security Services shall develop a matrix for this purpose that ensures fairness, consistency, and equity when evaluating criminal backgrounds. Security Services or any administrator may also revoke a volunteer's privileges at any time if the volunteer's presence is considered in the District's sole discretion to be disruptive or unsafe to the learning environment or any part of the District's operations.

### B. Volunteer Criminal History Appeals Process

- (1) Individuals whose application to volunteer in Portland Public Schools is denied, may appeal.
- (2) Appeals must be written and can be mailed, emailed, faxed, or hand delivered to the District's Security Services Department. Appeals must be received no later than 30 days from the date the applicant was notified that their background check was denied. Security Services will time/date stamp the appeals request upon receipt.
- (3) Volunteer applicants may also request to appeal in person or via video conference. Applicants requesting an in-person meeting must indicate so by checking the appropriate block on the appeals request form.
- (4) Requests for an in-person meeting will be scheduled no later than 30 days from the date the appeals request is received by the Security Services department.

### C. Volunteer Criminal History Screening Appeals Panel

- (1) The Superintendent or designee is responsible for appointing the three members of the Volunteer Criminal History Screening Appeals Panel. The composition of the Volunteer Criminal History Screening Appeals Panel shall be as follows:
  - (a) One member of the Volunteer Criminal History Screening Appeals shall be the Chief Operating Officer or their designee.
  - (b) One member of the Volunteer Screening Appeals Panel shall be head of the equity department in the District or their designee.
  - (c) One member of the Volunteer Criminal History Screening Appeals Panel shall be the Chief of Human Resources or their designee.
  - (d) The Security Services Department shall provide a non-voting member who is familiar with the volunteer screening process.

- (2) Applicants will be notified of the Panel's decision within 15 business days.
- (3) All decisions made by the Volunteer Criminal History Screening Appeals Panel are final.

### **IX. Fees**

- (1) Fingerprint-Based Criminal History Verification
  - (a) A fee, in the amount identified in OAR 581-021-0511, plus a District charge may be collected from the employee or contractor having the fingerprint records check. All payments due the District will be made to the PPS Finance Department.

### **X. Student Volunteers and Employees**

Current high school students who are volunteering at the District or are being hired for temporary employment by the District are exempt from the fingerprint and criminal history screening requirements outlined in this administrative directive.

Policy Implemented: 5.10.140-P; History: OAR 581-022-1730; Amd 7/9/2004; Amd 2/07; 8/09; 5/13; 8/15; 11/16; 1/20; 8/21