

MITCH Charter School

Code: GCDA/GDDA-AR
Revised/Reviewed: 7/20/23

Criminal Records Checks and Fingerprinting

Requirements

1. An individual who is an employee¹ of a public charter school, full-time or part-time, shall be required to submit to a criminal records check and fingerprinting.
2. Any individual newly hired, whether full-time or part-time employee² and not requiring licensure under ORS 342.223 as a teacher, executive director, personnel specialist or school nurse, shall be required to submit to a criminal records check and fingerprinting.
3. 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 submit to a criminal records check and fingerprinting with TSPC.
4. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, executive director or personnel specialist shall be required to submit to a criminal records check and fingerprinting with TSPC.
5. Any individual hired as or by a contractor and³, whether part-time or full-time, into a position having direct, unsupervised contact with students as determined by the public charter school shall submit to a criminal records check and fingerprinting.

The public charter school executive director will identify contractors who are subject to such requirements.

6. Any community college faculty member providing instruction at the site of an early childhood education program, 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 criminal records check and fingerprinting.
7. Any person applying for a volunteer position with the school shall submit to an in-state criminal records check.

¹ Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the public charter school has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

² Ibid. 1 p. 1

³ A contractor's employee may not be required to submit to fingerprinting until the contractor has been offered a contract by the public charter school.

Exceptions

A newly hired employee⁴ is not subject to fingerprinting if the public charter school has evidence on file that the employee successfully completed a state and national criminal records check for a previous employer that was a public charter school, ESD or school district, and has not resided outside the state between the two periods of employment.

Notification

1. The public charter school will provide the following notification to individuals 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 completed by the Oregon Department of Education (ODE) that impact employment, contract or volunteering may be appealed as a contested case to ODE;
 - 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 check and/or fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the public charter school;
 - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on public charter school employment applications, contracts or ODE forms (written or electronic) may result in immediate termination from employment or 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 a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number may result in immediate termination from the ability to volunteer with the public charter school. The public charter school may remove the volunteer from the position allowing direct, unsupervised contact with students.
2. The public charter school will provide the written notice described above through means such as staff handbooks, employment applications, contracts or volunteer forms.

Processing and Reporting Procedures

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the public charter school. The public charter school shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
2. Fingerprints may be collected by one of the following:

⁴Any individual hired within the last three months.

- a. Employing public charter school staff;
 - b. Contracted agent of employing public charter school; or
 - c. Local or state law enforcement agency.
3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the public charter school will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the public charter school of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime, 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 public charter school.

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the public charter school including persons hired as or by contractors, shall be paid by the public charter school.
2. An individual offered a contract or employment by the public charter school may, only upon request, request that the amount of the fee be withheld from the amount otherwise due the individual in accordance with Oregon law.
3. Fees associated with required criminal records checks for volunteers shall be paid by the public charter school.

Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status

1. A subject individual required to submit to a criminal records check 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 public charter school upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁵ from the Superintendent of Public Instruction that the employee has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.
2. A subject individual may be terminated from employment or contract status upon notification from the Superintendent of Public Instruction that the employee has knowingly made a false statement as to the conviction of any crime.

⁵ Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.

3. Employment termination shall remove the individual from any public charter school policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and/or Board policy will be denied such ability to volunteer in the public charter school.
5. If the public charter school has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual may be denied the ability to volunteer.
6. A volunteer who knowingly makes a false statement, as determined by the public charter school, on a public charter school volunteer application form may be denied the ability to volunteer in the public charter school.

Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the public charter school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records check by ODE that prevents the ability to volunteer with the public charter school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.