

**Coburg Community  
Charter School Policy**

Code: GCDA/GDDA  
Adopted: 6/3/24

**Criminal Records Checks and Fingerprinting \***

{Required policy. Requirement/Authority for policy comes from OAR 581-021-0510 - 021-0512 and ORS 326.603 - 326.607.}

In a continuing effort to ensure the safety and welfare of students and staff, the public charter school shall require certain individuals to submit to a criminal records check and fingerprinting as required by law. This includes employees, contractors, volunteers and others.

**Requirements for Employees [{}<sup>1</sup>] not Licensed, Certified or Registered by the Teachers Standards Practices Commission (TSPC)]**

All newly hired employees<sup>2</sup> not identified under Oregon Revised Statutes (ORS) 342.223<sup>3</sup> are required to submit to a criminal records check and fingerprinting as required by law. A newly hired employee is not subject to fingerprinting if the public charter school has evidence on file that the person successfully completed a state and national criminal records check for a previous employer that was a school district<sup>4</sup>, or private school, and has not resided outside the state between the two periods of employment<sup>{<sup>5</sup>}</sup>.

An individual shall be subject to the collection of fingerprint information, only after the offer of employment from the public charter school. Fees associated with criminal records checks and fingerprinting for individuals applying for employment with the school and not requiring licensure shall be paid by the [school.] [individual. An individual may request the fee be withheld from the amount otherwise due the individual. The school will withhold this amount only upon request of the subject individual.]

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<sup>1</sup> {If the public charter school wants to include the larger section on TSPC-licensed employees (see p. 2), keep this bracketed language. If the school does not want to include the larger section on TSPC-licensed individuals, omit this bracketed language.}

<sup>2</sup> Any individual hired within the last three months. This 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).

<sup>3</sup> ORS 342.223 includes teachers, administrators, personnel specialist, school nurses, persons participating in supervised clinical practice experience, practicum or internship as a teacher, administrator or personnel specialist. See statute for details.

<sup>4</sup> As is defined in OAR 581-021-0510(9); includes school districts, the Oregon School for the Deaf, and educational program under the Youth Corrections Education Program, public charter schools and ESDs.

<sup>5</sup> {Additional exception applies through July 1, 2024. See ORS 326.603(4)(b).}

The public charter school [may<sup>6</sup>] [shall not] begin the employment of an individual [on a probationary basis pending] [before] the return and disposition of the required criminal records checks.

When the criminal records check indicates an individual has been convicted of any crimes<sup>7</sup> prohibiting employment, the individual will not be employed, or if employed will be terminated. When the criminal records check indicates an individual has knowingly made a false statement as to the conviction of any crime, the individual [may] [will not] be employed by the school, or if employed by the school [may] [will] be terminated. An individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the school as provided by law [may] [will not] be employed by the school. Employment termination shall remove the individual from any school policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.

[Requirements for individuals in positions requiring licensure, certification or registration with Teacher Standards and Practices Commission (TSPC) are outlined in ORS 342.223.]

OR

### **[Requirements for TSPC Licensed, Certified or Registered Individuals**

1. Any individual who is applying for a license as a teacher, administrator or personnel specialist is subject to a criminal records check and fingerprinting, unless the individual has submitted to such a check through the Teacher Standards and Practices Commission (TSPC) within the previous three years, or has remained continuously licensed by or registered with TSPC for a different license or registration for which the individual has already submitted to a criminal records check and fingerprinting.
2. Any individual who is applying for an initial certificate under ORS 342.475 as a school nurse shall submit to a criminal records check and fingerprinting with TSPC.
3. Any individual who is applying for a registration as a public charter school teacher or administrator with TSPC shall submit to a criminal records check and fingerprinting with TSPC.
4. Any individual applying for reinstatement of an Oregon license or registration as a teacher, administrator or personnel specialist, or a certificate as a school nurse with the TSPC, whose license, registration or certificate has lapsed for at least three years, shall submit to a criminal records check and fingerprinting with TSPC.
5. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist, if the individual does not hold a current license issued by TSPC and has not submitted to a criminal records check by TSPC within the previous three years for student teaching, practicum or internship as a teacher, administrator or personnel specialist, shall be required to submit to a criminal records check and fingerprinting with TSPC.]

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<sup>6</sup> Decisions regarding which employees may begin before the return of the required criminal records checks must be made in a nondiscriminatory manner.

<sup>7</sup> See OAR 581-021-0511(8).

## Requirements for Contractors<sup>{8}</sup>

All individuals employed as or by a contractor and considered by the public charter school to have direct, unsupervised contact with students<sup>9</sup> or unsupervised access to children are required to submit to a criminal records check and a fingerprint-based criminal records check.

The superintendent [or designee] will identify contractors who are subject to such requirements.

A contractor or an employee of a contractor required to submit to a criminal records check and fingerprinting in accordance with law and Board policy will be terminated from contract status, or withdrawal of offer of contract will be made by the public charter school upon:

1. Refusal to consent to a criminal records check and fingerprinting; or
2. Notification<sup>10</sup> from the Superintendent of Public Instruction that the individual 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.

A subject individual [may] [will] be terminated from contract status upon notification from the Superintendent of Public Instruction that the individual has knowingly made a false statement as to the conviction of any crime.

## Requirements for Volunteers

[<sup>11</sup>] The public charter school shall require a fingerprint-based criminal records check for volunteers allowed direct, unsupervised contact with students, in the following positions:

1. Head coach;
1. Assistant coach;
2. Overnight chaperone;
3. Volunteers transporting students, other than their own, in a private vehicle off school property for a school-sponsored activity;
4. List of other positions subject to this fingerprinting, if any.

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<sup>8</sup> {The public charter school should include language regarding background checks in any contract that includes direct, unsupervised contact with students whenever applicable.}

<sup>9</sup> “Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision. (OAR 581-021-0510)

<sup>10</sup> 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.

<sup>11</sup> {If the public charter school requires fingerprinting for certain volunteer positions, the school is required to list those volunteer positions in board policy. The bracketed language is only possible examples; modify to identify the positions in the school which require such fingerprinting.}

The service of a volunteer into a position identified by the public charter school as requiring a fingerprint-based criminal records check [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of a state and national criminal records check based on fingerprints.]

{<sup>12</sup>} Volunteers allowed by the public charter school into a position designated by the school to have direct, unsupervised contact with students shall submit to an in-state criminal records check.

[The service of a volunteer allowed to have direct, unsupervised contact with students [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of a criminal records check.]

[A volunteer that is not likely to have direct, unsupervised contact with students, as determined by the public charter school, [will] [will not] be required to submit to an in-state criminal records check.]

[A volunteer who knowingly made a false statement on a public charter school volunteer application form or has a conviction of a crime 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] [will] result in immediate termination from the ability to volunteer in the school.]

[Fees associated with a required fingerprinting for volunteers shall be paid by the [individual] [public charter school].] Fees associated with required non-fingerprinting criminal records checks for volunteers shall be paid by the [individual] [public charter school].

[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 Board policy will be denied such ability to volunteer in the public charter school.]

## **Requirements for Others**

Any community college faculty member providing instruction at the site of an early childhood education program, 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 is required to submit to a criminal records check and a fingerprint-based criminal records check.

## **Notification**

The public charter school will provide written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or [volunteer] forms.

The public charter school will provide the following notification to individuals subject to criminal records checks and fingerprinting:

1. Such criminal records checks and fingerprinting are required by law or Board policy;
2. All employment or contract offers [or the ability to volunteer] are contingent upon the results of such checks;

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<sup>12</sup> {If the public charter school allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and schools are required to conduct criminal records checks on these volunteers.}

3. A refusal to consent to a required criminal records check and fingerprinting shall result in immediate termination from employment[,] [or] contract status[ or the ability to volunteer in the public charter school];
4. A determination by the Oregon Department of Education (ODE) which affects an individual's eligibility to be employed, or contracted with, by the public charter school may be appealed to the Superintendent of Public Instruction under ORS 183.413 – 183.470;
5. 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] [will] result in immediate termination from employment or contract status;
6. 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[;] [.]
7. [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] [will] result in immediate termination from the ability to volunteer in the public charter school.] [The public charter school [may] [will] remove the volunteer from the position allowing direct, unsupervised contact with students.]

### **Processing and Reporting Procedures**

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

Fingerprints may be collected by one of the following:

1. Employing school staff;
2. Contracted agent of employing school;
3. Local or state law enforcement agency; or
4. Statewide vendor identified by the Oregon Department of Administrative Services.

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.

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 or has a conviction of a crime prohibiting employment[,] [or] contract[ or volunteering].

A copy of the fingerprinting results will be kept by the public charter school. The school's use of criminal history must be relevant to the specific requirements of the position, services or employment.

END OF POLICY

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**Legal Reference(s):**

[ORS 181A.180](#)

[ORS 181A.230](#)

[ORS 326.603](#)

[ORS 326.607](#)

[ORS 336.631](#)

[ORS 338.115](#)

[ORS 342.143](#)

[ORS 342.223](#)

[OAR 414-061-0010 – 061-0030](#)

[OAR 581-021-0510 – 021-0512](#)

[OAR 581-022-2430](#)

[OAR 584-050-0012](#)

[OAR 584-050-0100](#)

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq. (2018).