

## Oklahoma Background Check Rules and Legislation

### **Section 250. Contractors Prohibited from Allowing Sex Offenders to Work on School Section Premises.**

A. No person or business having a contract with a school or school district to perform work on a full-time or part-time basis that would otherwise be performed by school district employees shall allow any employee to work on school premises if the employee is convicted in this state, the United States or another state of any felony offense unless ten (10) years has elapsed since the date of the criminal conviction or the employee has received a presidential or gubernatorial pardon for the criminal offense.

B. Every person or business performing services not subject to subsection A of this section on the property of a school or school district shall at the time of contracting be required to sign a statement declaring that no employee working on school premises under the authority of the business is currently registered or required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippey Violent Crime Offenders Registration Act. Compliance with this statute shall be required of the person or private business, and there shall be no obligation placed upon a school district to ascertain the truthfulness of the affidavit.

C. A person or business having a written contract with a school or school district to perform work on a full-time or part-time basis that would otherwise be performed by school district employees may conduct a felony search of the employees of the person or entity who would be assigned that work through a request to the State Board of Education in the same manner as a felony search is afforded school districts by Section 5-142 of this title. **(70-6-101.48)**

### **Section 244. School Support Employees - Conviction of Felony - Criminal Sexual Activity or Sexual Misconduct.**

A. A school support employee as defined in Section 6-101.40 of this title shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment such employee is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or
2. Any felony offense.

B. A school support employee may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and
2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity. **(70-6-101.41)**

## **Section 185. National Criminal History Record Check for School Personnel**

A. Except as otherwise provided for in subsection F of this section, for purposes of employment, a board of education may request in writing to the State Board of Education that a national criminal history record check be conducted of any employee of the school and shall request such information for any person seeking employment with the school. The Oklahoma State Bureau of Investigation (OSBI) shall obtain fingerprints of the employee or prospective employee and require that the person pay a search fee not to exceed Fifty Dollars (\$50.00) or the cost of the search, whichever is the lesser amount. The fees shall be deposited in the OSBI Revolving Fund. School districts may reimburse employees for the cost of the search. The State Board of Education shall contact the Oklahoma State Bureau of Investigation for any national criminal history record of the person within fourteen (14) working days of receiving a written request from the board of education.

B. The Oklahoma State Bureau of Investigation shall provide the national criminal history record check requested by the State Board of Education within fourteen (14) working days from the receipt of the request. The Bureau may contact the Federal Bureau of Investigation to obtain the information requested.

C. The State Board of Education shall provide the information received from the Oklahoma State Bureau of Investigation to the board of education within fourteen (14) days from the receipt of the information. The State Board of Education shall provide any follow-up information received from the OSBI concerning a person for which a national criminal history record check was requested to the employing board of education.

D. For the purpose of this section:

1. "Board of education" includes both public and private boards of education within or outside this state;
2. "National criminal history record check" means a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes; and
3. "Prospective employee" means an individual who has received an offer of temporary employment by a school district pending the results of the national criminal history record check.

E. Each public board of education within this state shall promulgate a statement regarding the felony record search policy for that school district. The policy may permit temporary employment of prospective employees for a maximum of sixty (60) days pending receipt of results of national criminal history record check requests. The temporary employment of the prospective employee shall terminate after sixty (60) days unless the school district receives the results of the national criminal history record check. The sixty-day temporary employment period shall begin on the first day the prospective employee reports for duty at the employing school district. Prospective employees shall be notified of the requirement, the fee and the reimbursement policy when first interviewed concerning employment. The school district's reimbursement policy shall provide, at the minimum that employees shall be promptly reimbursed in full for the fee if employed by the district at the time the national criminal history record check request is made unless the person was employed pending receipt of results as set forth above.

F. 1. Any person who has been employed as a full-time teacher by a school district in this state and applies for employment as a full-time teacher in another school district in this state may not be required to have a national criminal history record check if the teacher produces a copy of a national criminal history record check completed within the preceding five (5) years and a letter

from the school district in which the teacher was employed stating the teacher left in good standing.

2. For any person applying for employment as a substitute teacher, a national criminal history record check shall be required for the school year; provided however, a board of education may choose whether to require a national criminal history record check from a prospective substitute teacher who has been employed by the school district in the last year.

3. Any person applying for employment as a substitute teacher in more than one school district shall only be required to have one national criminal history record check, and, upon the request of the substitute teacher, that record check shall be sent to all other school districts in which the substitute teacher is applying to teach. Any person employed as a full-time teacher by a school district in this state in the five (5) years immediately preceding an application for employment as a substitute teacher may not be required to have a national criminal history record check, if the teacher produces a copy of a national criminal history record check completed within the preceding five (5) years and a letter from the school district in which the teacher was last employed stating the teacher left in good standing.

4. Any person employed as a substitute teacher by a school district in this state for a minimum of five (5) years immediately preceding an application for employment as a full-time teacher in a school district in this state may not be required to have a national criminal history record check if the teacher produces a copy of the national criminal history record check completed with the preceding five (5) years and a letter from the school district in which the teacher was employed as a substitute teacher stating the teacher left in good standing.

5. Any person employed as a full-time teacher by a school district in this state for ten (10) or more consecutive years immediately preceding an application for employment as a substitute teacher in the same school district may not be required to have a national criminal history record check for as long as the person remains employed for consecutive years by that school district as a substitute teacher, if the teacher left full-time employment in good standing. If the teacher applies for employment as a substitute teacher in another school district, a national criminal history record check shall be required.

G. The provisions of this section shall not apply to technology center employees hired on a part-time or temporary basis for the instruction of adult students only.

H. Nothing in this section shall be construed to impose liability on school districts, except in negligence, for employing prospective employees within the sixty-day temporary employment window pending the results of the national criminal history record check. (70-5-142)

### **Section 33. Persons Convicted of Certain Crimes Ineligible for Teacher Certificate**

No person shall receive a certificate for instructional, supervisory or administrative position in an accredited school of this state who has been convicted of a felony, any crime involving moral turpitude or a felony violation of the narcotic laws of the United States or the State of Oklahoma, provided the conviction was entered within the preceding ten-year period. (70-3-104.1)

- Person first applying for teaching certificate after October 1, 1979, cannot be issued certificate if conviction was entered within 10 years preceding date of application, and

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will not be eligible for certificate until 10 years have elapsed from the date conviction was entered *October 19, 1979 (1979 OK AG 265)*.

- Holder of renewable certificate issued prior to October 1, 1979 is not eligible to seek renewal until 10 years have elapsed from date of conviction. *October 19, 1979 (1979 OK AG 265)*.
- Criminal conviction entered after October 1, 1979, is basis for denial of renewal of certificate issued prior to October 1, 1979. *October 19, 1979 (1979 OK AG 265)*.