

Criminal History Checks

[Requirements](#)
[Information Required](#)

Requirements

Texas Education Code requires each school district or education service center (ESC) in Texas to review criminal history record information (CHRI) for the following:

- Applicants
- Employees
- Substitute teachers
- Student teachers
- Certain volunteers
- Anyone who will be performing contract services on school property or at another location where students are regularly present
- Employees of shared service arrangements whose duties are performed on school property or at another location where students are regularly present

Districts may conduct an initial criminal history check themselves or contract with a third-party vendor. Background checks obtained from a third-party vendor are considered consumer reports and subject to the notice and destruction rules of the Fair Credit Reporting Act (FCRA) and the Fair and Accurate Credit Transaction Act (FACTA) (see, [Other Background Checks](#)).

Volunteers. A volunteer is defined as a person who has indicated, in writing, an intention to serve as a volunteer. The criminal history of volunteers must be reviewed except in the following circumstances:

- The volunteer is a parent, guardian, or grandparent of a student enrolled in the district or school where the person will perform the volunteer services
- The volunteer is accompanied by a district employee while on campus
- The person is volunteering for a single event on campus

Although a district is not required to review the criminal history information of those listed above, it may do so if it wishes.

National Criminal History Checks. Beginning in 2007–2008 national criminal history record checks will be required. The national criminal history checks will be based on fingerprints and photos. The process will be conducted through the Texas Education Agency (TEA) and the

Texas Department of Public Safety (DPS). Until the new system is in place, districts should continue to use their current process (e.g., DPS name check or third-party check) to review criminal history.

The following are important dates for the implementation of the required national criminal history checks:

- September 1, 2007—Criminal history checks on student teachers and volunteers must be done before student teaching or volunteer duties are performed. The district's current process (e.g., DPS or private vendor check) should be used.
- January 1, 2008—Newly hired non-certified employees and new hires of contractors that have direct contact with students will be required to have a national criminal history check through DPS. Districts will need to incorporate fingerprinting by DPS's contractor into their hiring process.
- September 1, 2011—National criminal history check through DPS must be completed for all current certified employees and substitutes. This process will be organized by TEA.

District Checks. CHRI should only be used for evaluating the suitability of an individual for employment. A district may discharge an employee if he or she did not disclose, when asked, information concerning a felony conviction or an offense involving moral turpitude. In addition, the district has a related duty to notify, in writing, the State Board for Educator Certification (SBEC) if a certified applicant has a reported criminal history. The school district or an employee of the district is not civilly or criminally liable for making a report required by statute, such as providing written information to SBEC [TEC §21.006 (b)(1)].

CHRI is privileged and is only for the use of the district, shared services agreement, Education Service Center (ESC), SBEC, and service contractors. A person who releases or discloses the information to any person other than the subject of the report, the Texas Education Agency (TEA), SBEC, or DPS commits an offense. Districts can share the information or show the report to the applicant or volunteer, but cannot give the individual a copy of the report.

Information Required

Districts must obtain specific information from the individual in order to conduct a criminal history check. The district does not need the individual's permission to obtain the CHRI as long as the district conducts the check through a law enforcement or criminal justice agency. The individual's authorization is required when the district uses a third-party vendor to conduct the check. In addition, the district must follow the other notice and destruction rules of FCRA and FACTA (see, [Other Background Checks](#)).

DPS is the most reliable and cost-effective source of criminal history information for crimes committed in Texas. Local sources should not be overlooked, but to ensure a statewide search for CHRI, it is advisable to contact DPS. Local police departments and the Texas Department of Corrections can only provide criminal history records from their own jurisdictions. Districts may use a third-party vendor to obtain information on out-of-state offenses.

Confidentiality. Information needed for background checks is sensitive and should be handled carefully. Districts must use the individual's name, gender, age, and race when requesting CHRI. Because of equal employment opportunity concerns, the district should take the same precautions with the information provided on the CHRI information sheets as it does with statistical data and reports collected and prepared for the Equal Employment Opportunity Commission and TEA. This information should be handled and maintained separately from other employment documents. Individuals should be informed that the information will not be used by the district for any purpose other than to obtain the required CHRI.

A model form for collecting required information is included in the *Member Library* (see, [Criminal History Record Information Request](#))

[Back to Top](#)

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