

GUIDE FOR SCHOOL CONTRACTORS DPS AND FBI CRIMINAL HISTORY CHECKS

Legislative Requirement

Senate Bill 9 passed in the most recent legislative session directs school district contractors to obtain state and national criminal history background searches on their employees who:

On or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

- (1) the employee or applicant has or will have continuing duties related to the contracted services; and*
- (2) the employee or applicant has or will have direct contact with students.*

The bill states that DPS will provide the results through the DPS criminal history clearinghouse (Fingerprint-based Applicant Clearinghouse of Texas –FACT). FACT is a new service developed by the DPS to fulfill the background check requirements of non-criminal justice entities. Initially FACT will serve the Texas Education Agency (TEA), school districts, charter schools, and school contractors as required by Senate Bill 9.

The Process

Briefly stated, school contractors must take the following steps to obtain the background checks required under Senate Bill 9:

1. Establish an account on the DPS FACT clearinghouse, as follows:

- a. Contact the DPS Access and Dissemination Bureau and advise them that you are applying for access as a school contractor:

Access and Dissemination Bureau
Texas Department of Public Safety
Crime Records Service
P. O. Box 149322
Austin, Texas 78714-9322

Email: FACT@txdps.state.tx.us

Phone: (512) 424-2365

- b. Access and Dissemination Bureau will provide via email:
 - i. the website address where you go to sign up for access to the DPS Secure Website for criminal history (FACT is a component of that site);
 1. Follow the on-site instructions

2. Sign the Secure Site User agreement and return it to DPS. You may fax the signed copies to the Access and Dissemination Bureau and send the originals in the mail. Originals must be received within 14 days.
 - ii. a User Agreement for FACT
 1. Sign the FACT User Agreement and return it to DPS. This is necessary because it is more restrictive than the Secure Site User Agreement. You may fax the signed copies to the Access and Dissemination Bureau and send the originals in the mail. Originals must be received within 14 days.
 - iii. The Security Policy for Non-Criminal Justice Agency Access, Use, and Dissemination of Criminal History Record Information.
 1. When you sign the User Agreement you are agreeing to abide by the Security Policy requirements.
 - iv. a request for the front page and signature page of your contract with a school district, open-enrollment charter school, or shared services arrangement.
 1. Please fax those documents to the Access and Dissemination Bureau and mail the originals to be mailed with the other submissions.
- c. After the User Agreements are received, DPS will notify you of your approval and provide you with a form (called a “Fast Fingerprint Pass”) with your company’s User Number for use on FACT. The form will be sent to your Message Center on the Secure Website. That form must be given to each employee who will work at a school, as described by Senate Bill 9.

2. Perform criminal history background searches on employees who will work at a school, under the conditions described in Senate Bill 9 (listed above in *Legislative Requirement*).

- a. Direct those employees set an appointment for fingerprinting through the DPS Fingerprint Applicant Services of Texas (FAST) contractor at the phone and email listed on the *Fast Fingerprint Pass*. The person must take the *Fast Fingerprint Pass* with them to the appointment. The person will pay the fees (See Section 6, below) either at the time of scheduling or at the time of fingerprinting.
- b. After the person is fingerprinted, FAST will send the fingerprints to DPS electronically. DPS will search the fingerprints through the DPS Automated Fingerprint Identification system (AFIS) which contains the fingerprints of persons reported to DPS as having been arrested in Texas.

DPS will then send the fingerprints to the FBI for searching through the FBI AFIS, which contains the fingerprints of persons reported to the FBI as having been arrested in other states.

- c. DPS will consolidate the results from the DPS and FBI and place them in the FACT Clearinghouse. At that time, FACT will send you an email notice that the results are available for you to review. You will sign on the FACT website to review the results and make a determination regarding the suitability of that person to work in the schools.
- d. At the time that you are notified of the results, you are also automatically “subscribed” to that person’s record in FACT. That means that if the person is arrested in Texas in the future, you will receive an email from FACT telling you that the person’s record has been updated. (See #3 and #4, below.)
- e. Senate Bill 9 requires that you “certify” to any school district at which you work that this process has been followed. The school district may ask for a person’s name, driver license number, and other information to inquire into the FACT Clearinghouse and verify the results, as well.

3. Unsubscribe to records of employees who leave your employment.

- a. You are only authorized to see a person’s criminal history as long as they are in your employ, as described in Senate Bill 9. If a person leaves your employment, you must “unsubscribe” to that record. See #4 below.
- b. The FACT website gives you an unsubscribe feature that you must use whenever a person leaves your employment. That person will remain on your FACT list of employees, but will be “inactive”. If the person returns to your employment, you can simply “re-activate” the record. This is intended to assist with managing the background check requirements of seasonal employees.

4. Respond to subscription notices of updates to the criminal history record information.

- a. When a person to whom you are “subscribed” is reported to DPS has having been arrested in Texas, you will receive an email notification of an update to the criminal history record. You must sign into the FACT website and review the notice.
- b. Prior to viewing the updated criminal history record information, you must verify from your own records that the person is still an employee and that you are still authorized to receive the record. If the person is no longer employed by your company, you are no longer authorized to receive the updated criminal history record information.

- c. The website gives you the opportunity to review the record, or to “unsubscribe” from the record. If you are still authorized to view the record, click the appropriate button to view the record. If you are no longer authorized to view the record, click the “unsubscribe” button.

5. Maintain Security and Confidentiality of criminal history record information obtained from FACT.

- a. You are authorized to use the criminal history background check process only for purposes identified in Senate Bill 9. Unauthorized access to criminal history record information is a crime under Section 411.083, Texas Government Code.
- b. The FACT User Entity Agreement has a Security Policy attached. You must read and follow those guidelines.
- c. DPS will audit use of the criminal history file and of FACT. Audits will include a comparison of criminal history background check submissions from contractors against their employment records to verify that the information is only being requested and used for authorized purposes. Violations of DPS or FBI policies or state or federal law may result in termination of services and/or criminal penalties.
- d. The information in the FACT Clearinghouse is confidential, and access must be restricted to the least number of persons needed to review the records.
- e. Access to FACT must be from a computer within your company offices and cannot be from a public internet computer that is or could be shared by other users who are not authorized users within your company (for example computers in a public library).
- f. Any questions regarding the access, use, dissemination of criminal history record information must be referred to:

Access and Dissemination Bureau
Texas Department of Public Safety
Crime Records Service
P. O. Box 149322
Austin, Texas 78714-9322

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Phone: (512) 424-2365

6. Fees

1. The charge for the applicant to be fingerprinted at the FAST location is \$9.95.
2. The charge for the search of the DPS criminal history file is \$15.00.
3. The charge for the search of the FBI criminal history file is \$19.25.
4. The total fee of \$44.20 is payable in one of two methods:
 - a. On-line at the time of scheduling the fingerprinting appointment. Methods of on-line payment are credit card or debit card. On-line payment requires a small (less than \$2.00) convenience fee paid to the state electronic payment service. That fee is not included in the \$44.20 identified above.
Or:
 - b. At the time of fingerprinting by personal check, cashiers check, or money order.