THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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Required Fingerprinting of Prospective School Employees by Covered Schools

To: District Superintendents
Superintendents
Charter School Administrators
TEACH School District Users for Covered Schools including Directors of Human Resources and Fingerprint Coordinators

From: Samuel J. Finnessey, Jr., OSPRA Director & Assistant Counsel

Subject: Required Fingerprinting of Prospective School Employees by Covered Schools

Date: September 25, 2024

1. The purpose of this memorandum is to further inform and remind all covered schools that it is the responsibility of a covered school to ensure that all prospective school employees are required to be fingerprinted and have a criminal history background check done prior to covered school employment as outlined in 8 NYCRR Part 87 of the New York State Education Department's regulations.

2. 8 NYCRR § 87.2(e) of the Department's regulations defines a "covered school" as meaning "a board of cooperative educational services, a charter school, a school district, or any nonpublic or private elementary or secondary school that elects to fingerprint and seek clearance for prospective employees from the department beginning July 1, 2007, geographically located in New York State, excluding the city school district of the City of New York."

3. 8 NYCRR § 87.2(k) of the Department's regulations defines a "prospective employee" as any individual:

(1) who is either:

(i) seeking a compensated position with a covered school and is not currently employed by such covered school or a student enrolled in the instructional program of a grade level in such covered school;

(ii) an employee of a provider of contracted services to a covered school who is to be placed within such covered school; or

(iii) a worker who is to be placed within a covered school under a public assistance employment program pursuant to title 9-B of article V of the Social Services Law, directly or through contract;

(2) who will reasonably be expected by such covered school to provide services which involve direct contact, meaning in person, face-to-face communication or interaction, with students under the age of 21, or online communication or interaction directly with such students; and

(3) excluding individuals who:

(i) are seeking a position as a school bus driver or school bus attendant and are cleared for employment pursuant to sections 509-cc, 509-d and/or 1229-d of the Vehicle and Traffic Law after fingerprinting and a criminal history record check and whose fingerprints remain on file with DCJS;

(ii) have provided services for the covered school in the previous school year either: in a compensated position, or as an employee of a provider of contracted services to such covered school, or as a worker placed within the covered school under a public assistance employment program

pursuant to title 9-B of article V of the Social Services Law directly or through contract; or

(iii) will reasonably be expected by such covered school to provide services for the covered school on no more than five days in the school year in which services are to be performed, provided that the covered school provides in-person supervision of such individual by one or more employees of the covered school while that individual is providing such services. Individuals providing such time-limited and supervised services may include but shall not be limited to: artists, guest lecturers and speakers, and sports officials.

4. A covered school's fingerprint coordinator must submit a request for clearance for employment to OSPRA through the Department's TEACH Online Services System for each prospective (new) employee. The covered school is responsible for making sure this is done for all prospective employees.

5. A covered school's fingerprint coordinator must submit a request for clearance for employment through the Department's TEACH Online Services System for an employee of a provider of contracted services to a covered school who is to be placed within such covered school prior to employment unless the prospective employee is otherwise exempt from fingerprinting. Covered schools must ensure that clearance for employment requests for the prospective employees of a contracted service provider are submitted by their school's Fingerprint Coordinator to OSPRA through the TEACH Online Services System.[1] The covered school is responsible for making sure this is done for individual employees of contracted service providers that contract with the covered school. This includes bus monitors, aides, attendants, and others that fall under the definition of prospective employee.

[1] Additional resource: NYSED's Office of Pupil Transportation webpage entitled "Fingerprint Clearance – District & Contracted Employees" at https://www.p12.nysed.gov/schoolbus/FingerprintingClearance.html.

6. To assist the field, "Who Must Be Fingerprinted Charts" are available on OSPRA's website and the charts are reproduced here:

Who Must Be Fingerprinted Charts

Applicants for Certification and Employment Situations

Please note: These charts are intended for general guidance only and are not meant to replace a comprehensive review of the requirements of Part 87 of the Regulations of the Commissioner of Education(link is external) and the Safe Schools Against Violence in Education (SAVE) legislation (Chapter 180 of the Laws of 2001).

Applicants for Certification Chart

Applicants for Certification Chart	
Applicants for Certificates, Licenses or Permits	As of July 1, 2007, all applicants must undergo a fingerprint supported criminal history background check

Employment/Other Situations Where Fingerprinting is Required Chart

Employment/Other Situations Where Fingerprinting is Required Chart	
Type of Situation	Fingerprinting is required for the situations described below if: • the term of employment is greater than five days, • the employment involves direct contact with students under the age of 21, as determined by the employer, and • the employee is not otherwise exempt. Please refer to 8 NYCRR §87.2(k) for a definition of "prospective school employee."
Applicant for employment in public school, charter school or BOCES	Yes

Employment/Other Situations Where Fingerprinting is Required Chart	
Applicant for employment in a private or non-public school	If the private or non-public school elects to fingerprint new employees, then it must adhere to the situations covered by this chart for all new employees. If the private or non-public school elects to not fingerprint new employees, then this chart is not applicable.
Student employee (i.e., lifeguard or tutor) not enrolled in grade level program of same covered school	Yes
Clerical staff in covered school who have direct contact with students	Yes
Janitorial staff who have direct contact with students	Yes
Coaches	Yes
Substitute Teachers	Yes
Paid Student Teachers or Student Interns	Yes - paid student teachers are treated like employees and, therefore, are subject to fingerprinting
Hall Monitors	Yes
Bus Monitors	Yes
Cafeteria employees	Yes
Adult Continuing Education Instructors who have direct contact with students	Yes
Home and Hospital Instructors	Yes
Sports Officials	Yes
Guest Lecturers or Performing Artists in a covered school more than 5 times	Yes
Secretary at bus garage who occasionally fills in as a bus aide	Yes
Bus Aides/School Bus Attendants	Yes - unless they have been cleared pursuant to section 1229-d of the Vehicle and Traffic Law

Employment/Other Situations Where Fingerprinting is Required Chart	
Bus Drivers who also serve another role in covered school and have direct contact with students (i.e., janitor)	Yes
Individuals who have been fingerprinted for another purpose (i.e., teachers from another state, former police officers, former daycare workers*)	Yes* (If they were fingerprinted by NYCDOE after July 1, 1990, they may be able to have their fingerprint background information sent to SED – Please refer to the OSPRA 104 form for details)
Worker placed in the covered school under a public assistance employment program pursuant to Title 9-B of Article V of the Social Services Law	Yes
Employees of contract service providers who are placed within the school	Yes
Employees of Supplemental Education Services providers (SES Providers) pursuant to NCLB	Yes

Employment/Other Situations Where Fingerprinting is Not Allowed Under the Current Legislation Chart

Employment/Other Situations Where Fingerprinting is Not Allowed Under the Current Legislation Chart	
Type of Situation	The situations described below are not covered by the SAVE legislation, therefore the Education Department is not authorized to process fingerprinting applications for these types of individuals.
Applicant for employment in a private or non-public school	If the private or non-public school elects not to fingerprint new employees, they can not fingerprint any employees.
Volunteer	No

Employment/Other Situations Where Fingerprinting is Not Allowed Under the Current Legislation Chart	
Non-Certified Special Education School Employees (certified employees are subject to fingerprinting for certification purposes)	No
Student employee (i.e., lifeguard or tutor) enrolled in grade level program of same covered school	No
Student employee who has no direct contact with students (i.e., summer maintenance helper)	No
Unpaid Student Teachers or Student Interns	No - unpaid student teachers are treated like volunteers and, therefore, are not subject to fingerprinting
Clerical staff in covered school who have NO direct contact with students	No
Janitorial staff who have NO direct contact with students	No
Adult Continuing Education Instructors who have no direct contact with students	No
Guest Lecturers or Performing Artists who will not be in any particular covered school 5 times or less and they have in-person supervision by a employee of the covered school	No
Bus Drivers who have been cleared for employment pursuant to sections 509-cc, 509-d and/or 1229-d of the Vehicle and Traffic Law	No
Construction workers (i.e., painters, plumbers, architects) who have NO direct contact with students	No

7. TEACH resources for School Employers including a TEACH guide can be found here: https://www.highered.nysed.gov/tcert/teach/resourcesd.html.

8. When submitting a request for clearance for employment through the Department's TEACH Online Services System, the covered school's Fingerprint Coordinator must choose the closest matching Job Title category from one of the following selections when submitting the request for clearance:

    Administrator (Superintendent, Principal, School Business Official)
    Building and Grounds Services (Custodian, Janitor, Cleaner, Maintenance, Trades, Laborer)
    Cafeteria Staff
    Cashier
    Clerical Support Staff (Clerk, Secretary, Aide, Other)
    Coach
    Continuing Education Staff
    Contractor (Trades, Other Services)
    Guest Lecturer/Presenter/Performer
    Monitor (School, Bus, Other Transportation)
    Other Non-Certified School Employee
    Professional Support Staff (Computer/ITS Specialist, Grants Development, Other)
    Pupil Personnel (Guidance, Nurse, Social Worker, Psychologist, Librarian, Therapist)
    Security Guard
    SES Provider Other Employee
    SES Provider Teacher
    Sports Official
    Teacher (Classroom Teacher, Department Chair)
    Teacher Aide
    Teaching Assistant
    Tutor

9. Additional Fingerprinting Information and Instructions (for NYSED purposes only) can be found in the OSPRA 100 form which is available on OSPRA's website and is attached to this memorandum.
10. For more information on fingerprinting, please visit OSPRA's fingerprinting website at https://www.nysed.gov/educator-integrity/fingerprinting.
11. If you have questions about fingerprinting, you may also contact OSPRA by email at OSPRA@nysed.gov or by phone at (518) 473-2998.

Attachment: (1)

OSPRA 100

(Updated: 04/09/2024)

Fingerprinting Information and Instructions (NYSED purposes only)

This is a five-page document.

Office of School Personnel Review and Accountability (OSPRA)
New York State Education Department
89 Washington Ave
Albany, NY 12234
phone: (518) 473-2998
Website: https://www.nysed.gov/educator-integrity
Email: OSPRA@nysed.gov

FINGERPRINT INSTRUCTIONS FOR STATE EDUCATION DEPARTMENT PURPOSES ONLY

Effective August 3, 2015, the New York State Education Department ("NYSED") joined the Statewide Vendor Managed Fingerprint System operated by MorphoTrust/IDEMIA in conjunction with the Division of Criminal Justice Services ("DCJS") for fingerprinting services. Fingerprint applicants must contact MorphoTrust/IDEMIA to get information about filing a fingerprint application, paying the fee, and getting fingerprinted.

You must use one of the URLs below or call MorphoTrust/IDEMIA to schedule your fingerprinting appointment.

Enter the appropriate service code from this table:

APPLICANT FOR	SERVICE CODE
Certification	14ZGQT
Employee*	14ZGR7

1. To get fingerprinted **for State Education Department purposes**, click on the appropriate URL from this table below:
2. You may call MorphoTrust/IDEMIA at: 877-472-6915 to schedule an appointment.

The fingerprint application fee as of May 1, 2024 is:
Total Fee $102.50

APPLICANT FOR	URL
Certification	https://uenroll.identogo.com/workflows/14ZGQT
Employee*	https://uenroll.identogo.com/workflows/14ZGR7
*Attention prospective New York City DOE employees:	DO NOT USE THE ABOVE LINKS IF YOU NEED TO GET FINGERPRINTED FOR NEW YORK CITY DOE EMPLOYMENT – THESE LINKS ARE NOT FOR NYC DOE. The above URLS are for STATE EDUCATION DEPARTMENT fingerprinting purposes only. If you have questions about how to get fingerprinted for New York City DOE employment, please contact New York City DOE.

Privacy Act Statement

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Application Notification and Record Challenge

Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record. The procedure for obtaining a change, correction, or updating an FBI identification record are set forth in Title 18, CFR, 16.34. You can find additional information on the FBI website at https://www.fbi.gov/about-us/cjis/background-checks.

As of 03/30/2018

IDENTIFICATION REQUIREMENTS:

What kind of identification must I provide to IdentoGO / IDEMIA at the time of fingerprinting?

A: For the most current list of identification documents accepted by IdentoGo, visit the IdentoGo website through the appropriate link at https://www.nysed.gov/educator-integrity/fingerprinting, then select the option that reflects the reason for your fingerprinting, which will take you to IdentoGO's website. Next, click on: "What do I need to bring to enrollment?".

You must bring one of the valid/unexpired identification documents from the list below to your enrollment appointment.

- Driver's license issued by a U.S. State or outlying possession of the U.S.
- Enhanced Driver's License (EDL)
- Canadian Driver's License (Non-Commercial)
- Mexican Driver's License (Commercial or Non-Commercial)
- Commercial Driver's License issued by a State or outlying possession of the U.S.
- DMV Non-Driver Identification Card
- Department of Defense Common Access Card
- Driver's License PERMIT issued by a U.S. State or outlying possession of the U.S.
- Employment Authorization Card/ Document (Form I-766) with a photograph
- Enhanced Commercial Driver's License
- Enhanced Tribal Identification Card (for federally recognized U.S. Tribes)
- Federal ID Card with a seal or logo from a federal agency
- Foreign passport
- Merchant Mariner Document (MMD)
- Military Dependent's Identification Card
- Military Identification Card
- Military Identification Card (Retired)
- NYC Identification Card
- NYS Benefit Identification Card
- Passport Book or Card
- Permanent Resident Card / Green Card (I-551)
- Waiver Form for Applicants age 17 and Under and U.S. Social Security Card or Birth Certificate
- U.S. Visa issued by the U.S. Department of Consular Affairs for travel to or within, or residence within, the U.S.
- Uniformed Services Identification Card (Form DD-1172-2)

NOTE: For the most current list of Identification Requirements, please visit the IdentoGo website.

FINGERPRINTING INFORMATION

SAVE Law: Effective July 1, 2001, Education Law §§305(30), 3004-b, 3004-c and 3035, as amended by Chapter 180 of the Laws of 2000, and Part 87 of the Commissioner's Regulations require the Commissioner of Education to request a fingerprint-supported criminal history background check for applicants for certification as well as for prospective employees of covered schools. A covered school means means a board of cooperative educational services, a charter school, a school district, or any nonpublic or private elementary or secondary school that elects to fingerprint and seek clearance for prospective employees from the department beginning July 1, 2007, geographically located in New York State, excluding the city school district of the City of New York. The Commissioner of Education carries out these responsibilities through the New York State Education Department's Office of School Personnel Review and Accountability (OSPRA).

Fingerprint Processing: An individual has their fingerprints taken, in accordance with the procedures described above. The Statewide Vendor (MorphoTrust/IDEMIA) electronically forwards fingerprint images to the New York State Division of Criminal Justice Services (DCJS) and to the Federal Bureau of Investigation (FBI) for processing. DCJS and the FBI provide OSPRA with a copy of the individual's criminal history background, if any, so that OSPRA can make a determination on clearance for employment or certification.

Rejection of Fingerprints and/or a Fingerprint Application: There are several reasons why an application and/or fingerprints are rejected prior to completion of the fingerprint process. DCJS and/or the FBI may reject the fingerprints because there was a problem with the quality of the fingerprints, such as; the fingerprints were smudged; or too light or too dark. If fingerprint images are rejected, MorphoTrust/IDEMIA will attempt to contact the applicant three times via phone call or email to arrange for the submission of a new set of fingerprints. If they are unsuccessful, MorphoTrust/IDEMIA will send the individual a letter advising that the fingerprints were rejected.

Clearance Process: If there is no criminal history OSPRA will normally automatically issue a clearance within 24 to 48 hours. If there is a criminal history, the matter is reviewed by OSPRA, pursuant to the provisions in Executive Law § 296(16) and Correction Law §§ 752 and 753, to determine whether there is any basis for a possible denial of clearance.

Full Clearances for Employment: Full clearances for employment will be forwarded directly to the covered school through the Department's TEACH system. A full clearance for employment does not entitle the individual to a job. Final employment decisions rest with the covered school.

Conditional Clearances for Employment: In the event that the FBI criminal history report is delayed and there is no possible basis for denial based on the DCJS report, OSPRA may issue a conditional clearance for employment (pursuant to Chapter 147 of the Laws of 2001). A conditional clearance for employment would permit the school district, charter school or BOCES to hire the prospective employee on a conditional basis while OSPRA is waiting for criminal history results from the FBI. A conditional clearance for employment does not entitle the individual to a job. Final employment decisions rest with the covered school.

Clearance for Certification: The New York State Office of Teaching Initiatives is automatically notified that the individual is **cleared for certification** after OSPRA has reviewed both the DCJS and FBI criminal history reports and determined that there is no basis for a possible denial of clearance. **The individual will not receive a clearance letter from OSPRA indicating that his or her fingerprints have been cleared.**

Denial of Clearance for Employment: If OSPRA makes an initial determination that clearance for employment should be denied, OSPRA follows the due process steps outlined in Part 87 of the Department's regulations. The prospective employee will receive an "Intent to Deny" letter and an OSPRA 107 Form. A copy of the "Intent to Deny" letter **will not** be forwarded to the prospective school district, charter school or BOCES. The letter will advise the prospective employee on how to submit written material to demonstrate that clearance for employment should be granted. OSPRA will then review any information submitted by or on behalf of the prospective employee and make a final determination on clearance for employment. The prospective employee will then either be cleared or denied. If the prospective employee is denied clearance for employment, they will receive a Notice of Denial via regular and certified mail. If the prospective employee receives a final denial of clearance for employment, the covered school that put in the request for clearance will receive an electronic notification in TEACH, as well as a separate written notification, that the prospective employee has been denied clearance for employment. The covered school will not receive a copy of the denial letter that was sent directly to the prospective employee. A final denial of clearance for employment may be appealed by the prospective employee to the Executive Coordinator for the Office of Teaching. Instructions on how to file an appeal will be provided to the prospective employee with the final denial letter.

Denial of Clearance for Certification: Applicants for certification who have issues in their criminal history background and who may potentially be denied clearance for certification will be provided with information on their due process rights. Such individuals may not be denied clearance for certification without following the due process steps set forth in Part 83 of the Department's Regulations.

Submission of Additional Information: At any time during the process, an individual has the right to submit any information, in writing, that may be relevant to the consideration of his or her application for clearance, including, information in regard to good conduct and rehabilitation.

Subsequent Arrests: If an individual is arrested subsequent to providing their fingerprints to OSPRA, notice of the subsequent arrest will be made to OSPRA by DCJS. OSPRA is obligated to notify the school district, charter school, BOCES, or other covered school, of the name of the arresting agency, the date of the arrest, and the court of jurisdiction.

Change of Name or Mailing Address: Education Law § 3006(3)(d) requires certificate holders to notify the Department of any change of name or mailing address within thirty days of such change. In addition, it is highly recommended by OSPRA that everyone keep their mailing address updated in TEACH to ensure you receive any important correspondence from us.

Destruction of Fingerprints: The FBI will destroy the fingerprints once its criminal background check is completed. DCJS will retain the fingerprints following its criminal background check as part of its "Search and Retain" services, until the Department requests that the fingerprints be destroyed. If an individual was fingerprinted for employment purposes, leaves that employment and is not reemployed within 12 months at a public school, charter school or BOCES, OSPRA will request that DCJS destroy his or her fingerprints. Such individuals also have the right to request that his or her fingerprints be destroyed prior to the end of the twelve-month period. An individual who seeks employment in a school after his or her fingerprints have been destroyed will need to be fingerprinted again. Individuals who are fingerprinted for certification purposes may not have their fingerprints destroyed for the period of time that their certification is valid.

INDIVIDUALS WHO WERE FINGERPRINTED BY THE NYCDOE

Individuals who were previously fingerprinted for employment with the New York City Department of Education (NYCDOE) after July 1, 1990 may not have to be fingerprinted again. Chapter 380 of the Laws of 2001 authorizes the NYCBOE to share the results of such background checks with OSPRA for the purpose of clearance for employment and certification. Applicants must complete an **Authorization to Forward Criminal History Record Information from the City School District of the City of New York to the New York State Education Department** (OSPRA 104) form and submit it to the NYC DOE Division of Human Capital, HR Connect Fingerprinting Unit using the NYC DOE's HR Connect Web Portal. Instructions on how to submit the form using the portal are at the bottom of the form in Section 4. The NYCDOE will forward the results of your criminal history background check to OSPRA for review. No fee is due to OSPRA for this service, but applicants should understand that the 104 process takes much longer than getting fingerprinted again.

REVIEW OF CRIMINAL HISTORY

An applicant has the right to obtain a copy of their criminal history for review from the New York State Division of Criminal Justice Services (DCJS) and/or the Federal Bureau of Investigation (FBI) at the addresses listed below. An individual has the right to make a written challenge to the accuracy or completeness of any entry on their criminal history record. Challenges must be addressed directly to DCJS and/or the FBI. OSPRA does not have the authority to obtain reviews and seek corrections of individual criminal history information maintained by DCJS and the FBI.

NYS Division of Criminal Justice Services
Records Review Unit
80 South Swan St., 5th Floor
Albany, NY 12210
Website: https://www.criminaljustice.ny.gov

Federal Bureau of Investigation
Criminal Justice Information Services (CJIS) Division
1000 Custer Hollow Road
Clarksburg, WV 26306
Website: https://www.fbi.gov/about-us/cjis/background-checks

SUBSEQUENT APPLICATIONS FOR CERTIFICATION AND CLEARANCES FOR EMPLOYMENT

Once an individual has been fingerprinted and entered into the OSPRA fingerprinting database (TEACH), he or she does not have to be fingerprinted again for future employment in a school district, charter school, or BOCES in New York State, or additional certification applications, as long as the fingerprint records have not been destroyed. For additional clearances for employment, a prospective employer will need to submit a **Clearance for Employment Request** electronically through the New York State Education Department's TEACH system. All subsequent clearance determinations will follow the procedures as detailed in the above paragraphs.

OSPRA FORMS and WEBSITE

OSPRA created a comprehensive website to provide information and assistance about the fingerprinting process. The website address is: https://www.nysed.gov/educator-integrity. It contains the relevant laws and regulations, the most recent OSPRA forms, frequently asked questions (FAQs), special information for individuals who were previously fingerprinted by the New York City Board of Education (NYCBOE), a chart describing who must be fingerprinted, and other critical information and updates.

ADDITIONAL QUESTIONS OR CONCERNS

Please visit our fingerprinting webpage at https://www.nysed.gov/educator-integrity/fingerprinting and if you still have questions or need assistance, contact the Office of School Personnel Review and Accountability (OSPRA) at the telephone number or email address on the first page of this form.