

## SECTION 00 21 10 - Background Checks (Criminal, Child Abuse and FBI).

### Pennsylvania Department of Education (PDE) FBI Federal Criminal History Records of Prospective Employees Updated 2011

Act 114 of 2006, Section 111 of the Public School Code was amended effective April 1, 2007. **All** student teachers (participating in classroom teaching, internships, clinical or field experience) and prospective employees (including but not limited to administrators, teachers, substitutes, janitors, cafeteria workers, office employees) of public and private schools, Intermediate Units and area vocational-technical schools, including independent contractors and their employees and bus drivers, who have direct contact with children, must provide to their employer a copy of their Federal Criminal History Record that cannot be more than one (1) year old. This only applies to employees hired on or after April 1, 2007. Employees hired prior to April 1, 2007, are only required to provide the Federal Criminal History record if they have lived outside of the state for at least two years immediately preceding their application for employment.

#### **Implementation Timeline**

PDE contracted with Cogent Systems to manage this program for the Commonwealth. The management process includes establishing a website, manning a help desk, and establishing fixed site locations for the taking of and transmitting of applicants' fingerprints.

#### **The Process**

The fingerprint-based background check is a multiple-step process:

1. The applicant must register prior to going to the fingerprint site. Walk in service without prior registration will not be provided at any fingerprinting location. Registration is completed online or over the phone. Registration is available online 24 hours/day, seven days per week at [www.pa.cogentid.com](http://www.pa.cogentid.com). Telephonic registration is available at 1-888-439-2486 Monday through Friday, 8am to 6pm EST. During the registration process, all demographic data for the applicant is collected (name, address, SSN, etc.) so there is no data entry required at the fingerprint collection site.
2. The applicant will pay a fee of \$40.00 for the fingerprint service and to secure the Criminal History Record. Applicants may make their payment online at [www.pa.cogentid.com](http://www.pa.cogentid.com) using a credit card or debit card. Money orders or cashiers checks payable to Cogent Systems will be accepted on site for those applicants who do not have the means to pay electronically. **No cash transactions or personal checks are allowed.**
  - Cogent Systems will also establish a billing procedure for these services from an appropriate requesting agency that is willing to pay the applicant's fee. Billing may only occur after the requesting agency has completed the Cogent Systems' Agency Pay Agreement. To establish a billing account, visit the website [www.pa.cogentid.com](http://www.pa.cogentid.com) and download an application. The billing account must be established prior to sending applicants to the fingerprint site.
3. The applicant proceeds to the fingerprint site of their choice for fingerprinting. The location of the fingerprint sites and days and hours of operation for each site will be posted on Cogent Systems' website at [www.pa.cogentid.com](http://www.pa.cogentid.com). The location of fingerprint sites may change over time so applicants are encouraged to confirm the site location nearest to their location.

4. At the fingerprint site the Applicant Livescan Operators (ALO) manage the fingerprint collection process.
  5. The fingerprint transaction begins when the ALO reviews the applicant's qualified State or Federal photo ID before processing the applicant's transaction. A list of approved ID types may be found on the Cogent Systems' website at [www.pa.cogentid.com](http://www.pa.cogentid.com). Applicants will not be processed if they cannot produce an acceptable photo ID.
  6. After the identity of the applicant has been established, all ten fingers are scanned to complete the process. The entire fingerprint capture process should take no more than three to five minutes.
  7. The applicant's scanned fingerprints will be electronically transmitted to the Pennsylvania State Police, who in turn submits the fingerprints and demographic information to the FBI as required by federal statute.
  8. PDE will receive the Federal Criminal History Record from the FBI. PDE's School Services Unit will return the Federal Criminal History Record to the applicant. The Record will be printed on standard 8.5" X 11" paper with the Commonwealth Seal imbedded on the paper. **This document constitutes an official Record.** If an applicant presents their Federal Criminal History Record and the Commonwealth Seal is not embedded on the paper, it should be considered as invalid and not an official Record. If the applicant does not receive the Criminal History Record from PDE within eight weeks after being fingerprinted, they should call (717) 783-3750 or email PDE at [dwolfgang@state.pa.us](mailto:dwolfgang@state.pa.us).
  9. The applicant will then provide the Federal Criminal History Record to their prospective employer.
- \*\* The Act allows that Administrators may employ any applicants on a provisional basis for a single period not to exceed ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970, known as the "Public Employee Relations Act", provided that all of the following conditions are met:**
- The applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) or (c.1) and the applicant provides a copy of the appropriate completed request forms to the Administrator.
  - The Administrator has no knowledge of information pertaining to the applicant which would disqualify them from employment pursuant to subsection (e).
  - The applicant swears or affirms in writing that they are not disqualified from employment pursuant to subsection (e).
  - If the information obtained pursuant to subsection (b), (c), or (c1) reveals that the applicant is disqualified from employment pursuant to subsection (e), the applicant shall be suspended and subject to termination proceedings as provided for by law.
  - The Administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the vicinity of a permanent employee.

### **Fingerprint Corrections and Resubmissions**

In circumstances where a classifiable fingerprint record was not or cannot be obtained and immediately upon indication, Cogent Systems will take corrective action to re-submit, or re-print

the applicant at no cost to the applicant. This corrective action will be completed at the earliest possible time, and when applicable, that is convenient for the applicant. Cogent Systems will contact the applicant directly should this occur. NOTE: Reprinting can be applied to each applicant one time only. If fingerprinting must take place a third time the applicant must pay the full fee.

### **Group Fingerprinting Support**

If you have a requirement to fingerprint a large group of applicants (300 college education majors, a contractor's entire staff of 120 employees, 50 bus drivers, etc.) Cogent Systems and the fixed site providers will try to accommodate that request. Some fingerprint service sites have the ability to bring portable equipment to your site. If you are in need of Group Fingerprinting Support, visit [www.pa.cogentid.com](http://www.pa.cogentid.com). Service sites in your area that have mobile equipment will be listed. NOTE: This mobile service requires the visited site to provide broadband internet access and access through any firewall. The sites that offer mobile services can provide you instructions, in advance of their visit, that would allow fingerprinting to occur at your site. You must however, plan ahead. Requirements for hosting a mobile Livescan operation can be found at [www.pa.cogentid.com](http://www.pa.cogentid.com)

**We encourage you to utilize this service but you must plan ahead. Please do not overwhelm the service by sending large groups of applicants to the fixed site locations. If you must send your large group of applicants to a fixed site, please plan for their arrival to occur over days and weeks, not over hours.**

### **Confidentiality (Security) of Applicant Information**

On-site access to the Livescan equipment, and the data traveling from the equipment, is comprehensively secured and regulated by both Cogent Systems and the regulations governing the use of that data.

- **The Computer System** - The system will be housed within a secured network that is protected by firewall devices configured explicitly to allow only permissible protocols and traffic. Cogent Systems will ensure that all devices procured under this process continue to adhere to the Commonwealth's Security requirements. The proposed systems will be configured to provide a point of defense with controlled access from both inside and outside the network. The Livescan systems will be configured to support logging and audit capability. Furthermore, the Livescan solution will support 128 bit encryption.

### **Inquiries or Questions**

All information regarding process, policy, and fingerprinting locations may be found at [www.pa.cogentid.com](http://www.pa.cogentid.com)

Fingerprint Services Sites should contact Blake Godard at [bgodard@cogentsystems.com](mailto:bgodard@cogentsystems.com)

Fingerprint applicants should contact Denise Wolfgang at (717) 783-3750 or [dwolfgang@state.pa.us](mailto:dwolfgang@state.pa.us)

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

\*THIS DOCUMENT IS CURRENT THROUGH ACT 151 OF THE REG SESSION AND ACT 1  
OF THE SP. LEGISLATIVE SESSION\*

\*\*\*42 PA.C.S. 7101 through 42 PA.C.S. 20000 are current through 2006-178\*\*\*

\*\*\* MARCH 6, 2007 ANNOTATION SERVICE \*\*\*

PENNSYLVANIA STATUTES  
TITLE 24. EDUCATION  
CHAPTER 1. PUBLIC SCHOOL CODE OF 1949  
ARTICLE I. PRELIMINARY PROVISIONS

**GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

*24 P.S. § 1-111 (2006)*

§ 1-111. Background checks of prospective employees; conviction of employees of certain offenses

(a) This section shall apply to all prospective employees of public and private schools, intermediate units and area vocational-technical schools, including independent contractors and their employees, except those employees and independent contractors and their employees who have no direct contact with children. This subsection shall expire March 31, 2007.

(a.1) Beginning April 1, 2007, this section shall apply to all prospective employees of public and private schools, intermediate units and area vocational-technical schools, including, but not limited to, teachers, substitutes, janitors, cafeteria workers, independent contractors and their employees, except those employees and independent contractors and their employees who have no direct contact with children.

***Note: Items (1) through (7) do not appear in their entirety; as these items do not apply to Construction Managers, Construction Contractors, or the Construction Contractor's Subcontractors or suppliers.***

(1) Beginning April 1, 2007, this section shall **apply to bus drivers...**

(2) Beginning April 1, 2007, this section shall **apply to student teacher candidates...**

(3) For purposes of this section, "**student teacher candidate**" clarification...

(4) Prior to a **student teacher candidate's** participation...

(5) The **student teacher candidate** may not participate...

(6) During the course of a **student teacher candidate's** ...

(7) If a **student teacher candidate** is continuously enrolled ...

(b) Administrators of public and private schools, intermediate units and area vocational-technical schools shall require prospective employees to submit with their employment application, pursuant to 18 Pa.C.S. Ch.91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. Such criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations) and shall be no more than one (1) year old. An applicant may submit a copy of the required information with the application for employment. Administrators shall maintain a copy of the required information and shall require each applicant to produce the original document prior to employment. Administrators shall require contractors to produce the original document for each prospective employee of such contractor prior to employment.

(c) Where the applicant has not been a resident of this Commonwealth for at least two (2) years immediately preceding the date of application for employment, administrators shall require the applicant to submit with the application for employment a set of fingerprints which may be submitted to the Federal Bureau of Investigation for Federal criminal history record information pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544, 86 Stat. 1115 or a copy of such Federal criminal history record. Administrators shall forward the set of fingerprints for the Federal criminal history record to the Department of Education. The Department of Education shall be the intermediary for the purposes of this section. The Department of Education shall return the Federal criminal history record to the applicant. When the applicant provides a copy of the Federal criminal history record, it shall be no more than one (1) year old. Administrators shall maintain a copy of the required information and shall require each applicant to produce a Federal criminal history record that may not be more than one (1) year old at the time of employment. The original Federal criminal history record shall be returned to the applicant. This subsection shall expire March 31, 2007.

(c.1) Beginning April 1, 2007, administrators shall require the applicant to submit with the application for employment a copy of the Federal criminal history record in a manner prescribed by the Department of Education. When the applicant provides a copy of the Federal criminal history record, it shall be no more than one (1) year old. Administrators shall maintain a copy of the required information and shall require each applicant to produce a Federal criminal history record that may not be more than one (1) year old at the time of employment. The original Federal criminal history record shall be returned to the applicant.

(d) The State Board of Education shall, in the manner provided by law, promulgate the regulations necessary to carry out this section. The regulations shall provide for the confidentiality of criminal history record information obtained pursuant to this act.

(e) No person subject to this act shall be employed in a public or private school, intermediate unit or area vocational-technical school where the report of criminal history record information indicates the applicant has been convicted, within five (5) years immediately preceding the date of the report, of any of the following offenses:

(1) An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Former section 2709(b) (relating to stalking).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(2) An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(3) An out-of-State or Federal offense similar in nature to those crimes listed in clauses (1) and (2).

(f) The requirements of this section shall not apply to employees of public and private schools, intermediate units and area vocational-technical schools who meet all the following requirements:

(1) The employees are under twenty-one (21) years of age.

(2) They are employed for periods of ninety (90) days or less.

(3) They are a part of a job development and/or job training program funded in whole or in part by public or private sources. Once employment of a person who meets these conditions extends beyond ninety (90) days, all requirements of this section shall take effect.

(g) An administrator, or other person responsible for employment decisions in a school or other institution under this section who willfully fails to comply with the provisions of this section commits a violation of this act and shall be subject to civil penalty as provided in this section.

(1) The department shall have jurisdiction to determine violators of this section and may, following a hearing, assess a civil penalty not to exceed two thousand five hundred dollars (\$ 2,500).

(2) The civil penalty shall be payable to the Commonwealth.

(h) No person employed in a public or private school on the effective date of this section shall be required to obtain the information required herein as a condition of continued employment. Any person who has once obtained the information required under this section may transfer to another school in the same district or established and supervised by the same organization and shall not be required to obtain additional reports before making such transfer.

(i) Notwithstanding subsections (b), (c) and (c.1), administrators, before April 1, 2007, may employ in-State applicants on a provisional basis for a single period not to exceed thirty (30) days and may employ out-of-State applicants on a provisional basis for a single period not to exceed ninety (90) days and, after March 31, 2007, may employ any applicants on a provisional basis for a single period not to exceed ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970 (P.L. 563, No. 195), known as the "Public Employee Relations Act," provided that all of the following conditions are met:

(1) the applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) or (c.1) and the applicant provides a copy of the appropriate completed request forms to the administrator;

(2) the administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (e);

(3) the applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (e);

(4) if the information obtained pursuant to subsection (b), (c) or (c.1) reveals that the applicant is disqualified from employment pursuant to subsection (e), the applicant shall be suspended and subject to termination proceedings as provided for by law; and

(5) the administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.

**HISTORY:** Act 1990-211 (H.B. 1810), § 1, approved Dec. 19, 1990, eff. in 60 days; Act 1997-30 (H.B. 8), § 1, approved June 25, 1997, See section of this act for effective date information; Act 2002-153 (H.B. 204), § 1, approved Dec. 9, 2002, eff. immediately.; Act 2003-48 (S.B. 80), § 2, approved Dec. 23, 2003, eff. immediately.; Act 2004-70 (H.B. 564), § 1, approved July 4, 2004, eff. immediately.; Act 2006-114 (H.B. 185), § 1, approved July 11, 2006, eff. immediately.

Act 24 of 2011 (Act 24) contains a number of significant changes to the Pennsylvania Public School code that are designed to enhance the safety for school children. Among these changes, Act 24 amends Section 111 of the School Code, which provides for background checks for employees of public and private schools, intermediate units (IOU) and area vocational-technical schools (AVTS). Section 111 also applies to independent contractors and their employees who have direct contact with children and to student teacher candidates assigned to public and private schools. The changes to Section 111 are effective immediately.

#### **FOR CONTRACTORS THAT ARE PROVIDING CONSTRUCTION WORK ON SITE:**

Contractors are to refer to the state of Pennsylvania Department of Education's and Department of Welfare's websites for the most up to date requirements and abide by all state requirements.

- A. Contractors are responsible for obtaining all required certifications and must maintain certification for the duration of the project. Contractors are responsible for all costs necessary to obtain the required certifications.
- B. Prior to arrival on site, all Contractor (and subcontractor) employees performing any work shall submit the following documents:

- 1. Federal Criminal History Information Clearance (ACT 114)

Contractor must request a copy of the Criminal History Background check that will be mailed to the employee's home that includes the date of fingerprints, the PAE number, and any record information contained within the report.

- a. The employee must obtain the fingerprints from an authorized Cogent location to complete the process.
- b. Contractors are to provide the Registration ID to the Owner.
- c. The Cogent system will be used on-line or via the telephone to obtain registration. Registration must be completed prior to obtaining the necessary fingerprint.
- d. The employee will allow the District to view the Criminal History information on-line that constitutes the official record.

- 2. PA State Police Request for Criminal Records Check (ACT 34) –

- a. Contractor shall provide a copy of the official document.
- b. Contractors are recommended to use the on-line service {e-patch}, but a request form SP4-164 is also available that can be mailed.

- 3. Department of Public Welfare Child Abuse History Clearance (ACT 151) -

- a. Contractor shall provide a copy of the official document issued by the state.



- b. Each employee must complete and submit the latest CY-113 form to obtain the required clearance document.
- 4. Arrest & Conviction Report and Certification Form (ACT 24/82)
  - a. Each employee must complete and sign a copy of the latest PDE-6004 form.
- C. Contractors shall include all four documents into one PDF file for each employee for submission. All documents must be readable and legible. Contractors are required to submit originals for review by the District, if requested. Originals, if requested, will be returned to the contractor.
- D. Completed documents must be submitted at least 3 working days prior to arrival on site to allow time for processing and Owner's review. Contractors will be notified as soon as is possible if there is an issue discovered that would prohibit an employee's access to the project site. If no response is provided by the Owner within that 3 working day period after submission, then it is implied that the employee is permitted to work on the site. Contractors must sign-in, wear issued identification badges or stickers, or otherwise comply with the requirements of the District.
- E. For a document to be current, the date on the issued documents must be no more than 12 months older than the submission date to the District.
- F. Contractors (and subcontractors) shall make provisions in their planning of resource allocation for the necessary time required to obtain the necessary clearances prior to each employee's arrival on site. The entire process can take up to 4 weeks to obtain all final certifications, contractors must plan accordingly. Contractor will be held responsible for any delays caused by his failure to allocate the necessary time for the background clearance process that results in his failure to adequately man the project to meet the project schedule milestones. Contractors are instructed to file for all required background check documents upon issuance of notice to proceed.
- G. Contractors are permitted to blackout the employee's social security number that may show up on any report to prevent any identity theft concerns. Otherwise, the reports shall be clean from any other markings.
- H. Contractors are to review all employees (and subcontractors) background checks documents to ensure all documents are complete and meet all applicable standards for working at the project site prior to submission to the District. It is the contractor's responsibility to monitor their employees (and subcontractors) and only send personnel meeting the state of PA requirements for working on the project. Do not forward background clearance documents for everyone within the entire company, only forward documents for the personnel planned to work on the project site.
- I. All contractor personnel that will be included on certified payroll certificates for the project must have current background check documents submitted to the Owner.
- J. Due to circumstances beyond the contractor's control, the contractor has the option to submit a signed affidavit for the owners review while the documents are being processed. The affidavit must include a completed PA State police record check (ACT 34) and ACT 24 certification form and copies of completed submission forms for FBI & ACT 151 that are in the process but final documents have not been received. Final

reports for FBI & ACT 151 are required to be submitted upon receipt, but no later 30 days after submission of affidavit. The signed affidavit is only to be used as a means of last resort and will not be the norm to gain employees access to the project site. This form must be submitted a minimum of 24 hours prior to the individuals arrival on site to allow time for review and approval by the Owner.

- K. All background checks submitted for approval are sent to the Owner for final review. The Owner will make the determination on whether an employee is permitted to work on site. The Owner's decision is final and non-negotiable.
- L. Any contractor (or subcontractor) employee that does not have current back ground check documents will not be permitted to work on site and will be asked to leave the project immediately. All contractor (or subcontractor) employees must report immediately any changes to the ACT24 document submitted throughout the course of the project, whereas the owner will make a determination on the employee's work status.

END OF SECTION