

## **Employer – Contractor Certification Employer – Contractor Employees**

### **Introduction:**

Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Employer – Contractor must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

### **Definitions:**

State Criminal History Records (criminal history record information or CRHI) – information collected by the Texas Department of Public Safety (DBPS) that consists of arrests, detentions, indictments, and other formal criminal charges and their dispositions. These records include only data from Texas based on name and other identifiable information.

National Criminal History Records (national criminal history record information or NCHRI) – criminal history records from DPS and FBI retrieved through fingerprint identification information. The FBI's records include data from Texas and other states.

Covered Employees – Employees who have or will have continuing duties related to the contracted service to be performed at the District and have or will have direct contact with students. The district will be the final arbiter of what constitutes direct contact with students.

Disqualifying Criminal History – Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under chapter 62, Texas Code of Criminal Procedure; (c) an equivalent offense under federal law or the laws of another state.

### **Requirements:**

A criminal history review is mandatory for covered employees. If the individual is not a covered employee, SB9 does not authorize the contractor or the district to obtain the employee's criminal history through the DPS's clearinghouse; however, employees who are not covered should still undergo a CHRI review outside the DPS clearinghouse, as specified in the contract.

If the covered employee was employed before January 1, 2008, contractors must obtain state criminal histories (CHRI), If the covered employee was offered employment on or after January 1, 2008, contractors must obtain national criminal histories (NCHRI).

**A contractor has five general responsibilities:**

1. For covered employees, obtain state or national criminal history records, as required by statute;
2. For employees who are not covered, maintain any conditions or precautions that prevent the employees from being covered, such as inadvertent contact with students;
3. Be prepared to provide all necessary identifying information on covered employees to the district upon request within 5 working days;
4. Prohibit contractor and subcontractor employees with disqualifying convictions from serving at a school district; and
5. Certify compliance for self and subcontractors to the district.

**A contractor must certify to the district that it has received all criminal history information on covered employees.**

**Districts have three responsibilities:**

1. Obtain certification of compliance form each contractor.
2. Prohibit contractor and subcontractor employees with disqualifying convictions.
3. Report to SBEC any certified contractor employees with a reported criminal history.

**A contractor may not show a covered employee's criminal history record to the district.**

However, the identifiable information for each employee submitted by the contractor can be used to subscribe to the DPS Clearinghouse and obtain the NCHRI for covered employees. Districts may perform spot checks for this information or may obtain the information for all covered employees for the purpose of a review and verification of the contractor's certification.

**The Process:**

Briefly stated, school contractors must take the following steps in order to comply with SB9:

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

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, TX 78714-9322  
Email: [FACT@txdps.state.ts.us](mailto:FACT@txdps.state.ts.us)  
Phone: 512-424-2365

2. Access and Dissemination Bureau will provide via email:
  - a) The website address to sign up for access to the DPS Secure Website for criminal history (FACT is a component of that site);

Sign the Secure Site User agreement and return it to DPS. You may fax the signed copies to the Access and Dissemination Bureau and mail originals within 10 days.

- b) A User Agreement for FACT

Sign the FACT under agreement and return it to DPS. You may fax the signed copies to the Access and Dissemination Bureau and mail originals within 14 days.

- c) The Security Policy for Non-Criminal Justice Agency Access, Use, and Dissemination of Criminal History Record Information.

A request for the front page and signature page of the contract with the school district, or if a contract is not yet available, a letter on school district letterhead stating the intent to contract.

Fax those documents to the Access and Dissemination Bureau and mail the originals.

After the user agreements are received, DPS will notify the contractor of their approval and provide them with a "Fast Fingerprint Pass" along with the company's user number for use on FACT. The form will be sent to contactors' message center on the secure website. That form must be given to each covered employee.

1. Perform Criminal background searches on covered employees.
2. Unsubscribe to records of employees who leave your employment.
3. Respond to subscription notices of updates to the criminal history record information.

4. Maintain security and confidentiality of criminal history record information obtained from FACT.
5. Compile and maintain a current list of all necessary identifiable information for covered employees to be submitted to the district upon request.

CERTIFICATION OF CRIMINAL HISTORY RECORD INFORMATION REVIEW AND REQUIRED FINGERPRINTING BY CONTRACTOR-EMPLOYER

Certifying Affidavit submitted to:

School District: Granbury Independent School District
Mailing Address: 600 W. Pearl
Granbury, Texas 76048

Bid/CSP # \_\_\_\_\_

State of Texas §
County of \_\_\_\_\_ §

- 1. The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to Granbury Independent School District (the "District") that such firm has or will obtain, review and verify, the criminal history record information according to Texas Education Code Chapter 22 of all employees who (a) have or will have continuing duties related to contracted services, and (b) have or will have direct contact with students. The undersigned further swears and affirms no employees, assigned to work within the District, who meet the requirements of (a) and (b) herein have been convicted of any offense identified in Section 22.085 of the Texas Education Code.
2. The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to District that the firm will maintain the process throughout the time the contracted services are provided.
3. The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to District that the firm will submit to the District, when requested, proof of a satisfactory criminal record history of all individuals working on District property through background checks conducted as required by Senate Bill 9. The requirements are that the criminal history record information is obtained through the Texas Department of Public Safety's Fingerprint-based Applicant Clearinghouse of Texas (FACT). Details and requirements can be found on the Texas Department of Public Safety's website, www.txdps.state.tx.us and clicking Crime Records and reading School District Guide to Senate Bill 9.
4. The undersigned representative, on behalf of the contracting firm identified below, swears and affirms to District that they understand that there is a cost of each criminal records check (FACT) and the cost is the responsibility of the contractor.

\_\_\_\_\_, being duly sworn, affirms and certifies that he/she is the \_\_\_\_\_ (position) of \_\_\_\_\_ (contracting firm), and that all statements and acknowledgements contained herein are true and correct, and that he/she has the authority to bind such firm to the covenants set out above.

\_\_\_\_\_  
Firm Representative Signature

\_\_\_\_\_  
Firm Representative Printed Name & Title

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public \_\_\_\_\_ State of \_\_\_\_\_

My Commission expires \_\_\_\_\_