

Instructions to School District Contractors Regarding Criminal History Background Searches Under Senate Bill 9

Senate Bill 9 directs school district contractors to obtain state and national criminal history background searches on their employees who will have direct contact with students, and to receive those results through the DPS criminal history clearinghouse (Fingerprint-based Applicant Clearinghouse of Texas –FACT). In order for contractors to receive the information through FACT, they must first establish an account with the DPS for FACT clearinghouse access. The Company owner must sign a user agreement with the DPS. To obtain the user agreement and more information, please contact:

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

For fastest service, please email or call. State in the message that you are a school district contractor and need to have an account established for DPS FACT clearinghouse access. Please include:

Company Name
Company Address
Company Phone
Name of Company point of contact
Phone of Company point of contact
Company email to be used for notification of FACT records and messages

The information in the DPS FACT Clearinghouse is confidential, and access must be restricted to the least number of persons needed to review the records. The account must include at least one designated supervisor to make necessary changes and to monitor the site's security and the access to the criminal history data retrieved. Additional users must be limited to those who need to request, retrieve, or evaluate data regarding the individual applicants.

PLEASE NOTE: After you sign the DPS User Agreement for FACT, DPS will provide you with a revised ***FAST Fingerprint Pass*** that you will have to provide to your employees and applicants. Your employees and applicants will use that ***FAST Fingerprint Pass*** when scheduling their FAST fingerprinting.

Quick Reference Chart For Determining Whether A Contractor Must Be Fingerprinted

Question #1
Was the contractor (or person working for the contractor) hired after January 1, 2008?

No



The contractor does not need to be fingerprinted

Practical advice: If the individual contractor has been working with the District under a contract (either with the individual or a company) in existence prior to January 1, 2008, then no fingerprints are required. If, however, a new contract is signed after January 1, 2008, then the answer to this question would be yes. Similarly, if the contractor is a company, and the company hires new people after January 1, 2008, to come provide services under the contract to the District, then the answer to the question for those new people would also be yes.

Yes

Question #2
Is there a direct contractual relationship between the contractor and the District?

No



The contractor does not need to be fingerprinted

Practical advice: Remember that the person providing services (or the company he or she works for) must have a direct contract with NEISD in order to answer yes to this question. If the services are provided through a contractual agreement of which NEISD is not a direct party, then the answer is no. For example, subcontractors who provide construction services for the District are not subject to this law because their contractual relationship is with a general contractor, not the District.

Yes

Question #3
Are the contractor's duties in connection with the contract continuing in nature?

No



The contractor does not need to be fingerprinted

Practical advice: Where the particular contractor's duties are so limited that they will be accomplished within one day, and that individual will not return to the location where the duties are accomplished thereafter, then the duties will not be considered continuing and the fingerprinting requirement would not apply.

Yes

Question #4
Does or will the contractor have direct contact with students?

No



The contractor does not need to be fingerprinted

Practical advice: If the contractor will perform the required work at a District facility where students are present as part of the normal school day (such as a campus), then the answer to the question is yes. If, on the contrary, the work will be performed at a District facility where students are not normally present as part of the school day (such as the Central Office or Maintenance Department), then the answer to the question is no.

Yes

Question #5
Will the contractor be supervised and/or escorted while on the premises with students at all times?

No

The contractor will need to be fingerprinted prior to starting work

Practical advice: In considering this particular question, it will be safest and best to err on the side of caution. Simply put, if there is any doubt in your mind as to whether the contractor going to a campus to provide services will be supervised or escorted at all times while on that campus, the answer to this question should be no and fingerprinting must be performed.

Yes



The contractor does not need to be fingerprinted

In the event that the contractor needs to be fingerprinted, please see the attached form which sets forth the procedure the contractor must follow in order to get this accomplished. Remember that the contractor cannot start work until a receipt is provided to the District (and given to the Human Resources Department) indicating fingerprinting has been completed. Keep in mind that results of the fingerprint check may take several days to be received. Thus, the contractor will need to sign a contingency form understanding that if their fingerprint check reveals a prior record that would preclude them from working with the District, then that contractor would no longer be permitted to perform his or her duties with NEISD. Human Resources will provide this contingency form to you for your use.

Finally, even if the contractor does not need to be fingerprinted, you must still take appropriate security precautions, including running the individual through the RAPTOR system (which checks for registered sex offenders), and also having Human Resources run a criminal background check using the person's name. If you have any questions, please contact the Human Resources Department or the District's legal counsel.