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Frequently Asked Questions - Senate Bill 9 for Administrators updated 4/17/09

1. Who is required by Senate Bill 9 (SB 9) to submit fingerprint information to the Texas Department of Public Safety (DPS)?

1. All certified educators [those holding an educator certification issued by the State Board for Educator Certification (SBEC)]
2. All classroom substitute teachers and aides, whether certified or not
3. Noncertified employees hired by a district on or after 1/1/08
4. Charter school employees, whether certified or not, who are working in a teaching or professional position that would require certification if they were employed in a traditional school district

2. What kind of criminal history review is required for persons not subject to the fingerprinting requirements of SB 9?

SB 9 requires that the following types of school employees and volunteers must have a name-based background check. These employees will not be required to be fingerprinted, will not be reviewed by TEA or SBEC, and will not go into the DPS Clearinghouse.

1. Noncertified employees hired before 1/1/08
2. Contractor employees hired before 1/1/08 who have direct contact with students
3. Student teachers
4. Volunteers, unless they are a) a parent or guardian of a student, b) accompanied on campus by a district employee, or c) volunteering for a single event

3. What if my district has already fingerprinted some or all of its employees, or if the employee has been fingerprinted for another purpose, or in another state?

SB 9 requires that certain school employees be fingerprinted in such a way that their national criminal histories

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can be reported and updated through the DPS clearinghouse. Unfortunately, it is not possible for DPS to transfer existing fingerprint data into the clearinghouse unless it was associated with an SBEC application for certification. Therefore, even if school employees that SB 9 requires be fingerprinted have previously been fingerprinted by a district, for another purpose, or in another state, they will have to be fingerprinted again so that their criminal histories and updates can be entered into the clearinghouse.

4. What if an employee of the school district is required to be fingerprinted as a day care worker or law enforcement officer?

The employee must still comply with SB9. If the employee is a non-SBEC certified district employee hired on or after 1/1/08, they will be required to complete the fingerprint process in accordance to the process and guidelines for SBEC, TEA and DPS. DPS has indicated that FBI rules will prevent it from using fingerprints submitted for another purpose to satisfy the requirements of SB 9. If the employee was employed by the district before 1/1/08, then a DPS or private name-based check is all that is required to be in compliance with SB9.

5. What is the DPS clearinghouse?

The clearinghouse created by SB 9 will be administered by DPS, which will develop specific procedures for its use. The clearinghouse will be a database containing the national criminal history of Texas school employees. It is based on fingerprints, photos, and other identification that will enable the employing school district and TEA and/or SBEC to have positive identification and to have access to the employee's current national criminal history, and will also provide updates of the employee's subsequent criminal history.

6. How is information in the DPS clearinghouse made available to districts?

The district that originally submits and uploads employees to TEA/SBEC will be automatically subscribed to the clearinghouse for that particular person. If that person leaves a district, it will unsubscribe from that person so that it will no longer receive criminal history updates. If another district hires that employee, it will then subscribe to that employee's criminal history. More than one district may be subscribed to a person at any one time, since, for example, substitute teachers often work for several different districts at a time. Subscribing and unsubscribing is done through the DPS website and does not involve a fee, although there is a fee of \$1.00 for obtaining subsequent criminal history reports after the initial one.

7. When will certified educators, classroom substitutes, and school employees be fingerprinted?

1. All new (hired on or after Jan. 1, 2008) noncertified school employees must submit fingerprint information to DPS before starting work for a district.
2. All classroom substitutes must be fingerprinted by September 1, 2011.
3. All active (those who are currently employed by Texas public schools) certified educators must be fingerprinted by September 1, 2011.

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8. Are professionals employed by schools who hold a license issued by some organization or agency other than SBEC considered noncertified?

Professionals such as secretaries, speech therapists, physical therapists, athletic trainers, psychologists, nurses are not usually required to hold an educator certification from SBEC to work in public schools. Therefore, for purposes of SB 9, they are considered noncertified employees, unless they happen to also have an SBEC-issued educator certification.

9. How will the fingerprinting process work for noncertified employees hired on or after 1/1/08?

Basically, a district will upload the name and other required information for all noncertified employees hired on or after 1/1/08 to TEA, which will then send a FAST Fingerprint Pass authorization form to the district for that employee. The employee and/or the district will pay the fingerprint and criminal history review fees of \$52.20 online using a credit, debit, or prepaid debit card, and schedule a fingerprinting appointment with the DPS digital fingerprint vendor, Integrated Biometric Technology, an L-1 Identity Solutions Company. Details of this process are available on the TEA website at the [District Fingerprinting Procedures for Non-Certified Employees under Senate Bill 9](#) tab in the “Hot Topics” section.

10. Where does a school employee or applicant go to get fingerprinted?

The employee’s fingerprints must be submitted in a digital format that can be processed by DPS. Because of the complexity of technology, network, and security issues, DPS currently has an exclusive contract with L-1 Identity Solutions to collect and transmit all digital fingerprint information for licensing purposes. L-1 has more than 70 locations throughout the state. A list of those locations can be found on their website (<http://www.l1id.com/>) or by contacting L-1 Identity Solutions at 888-467-2080.

11. Are certified employees eligible to start work before the fingerprint process is complete or must the district wait until the results are final?

Once a district has been scheduled by TEA and SBEC to conduct national background checks of the entire district’s CERTIFIED employees, as well as all its substitute teachers and classroom aides, newly hired certified employees may begin work AFTER submitting their fingerprints to the DPS approved vendor. If the district has not been scheduled by TEA and SBEC to conduct background checks of the certified employees, as well as all its substitute teachers and classroom aides, they may continue employment with the district until TEA and SBEC schedules the district.

12. Are noncertified employees hired on or after 1/1/08 eligible to start work before the fingerprint process is complete or must the district wait until the results are final?

At the discretion of a district, noncertified employees may begin work after submitting their fingerprints, but their continued employment is contingent on the results of the criminal history report. As long as they have submitted their fingerprints to the DPS approved vendor, they may begin working for a district.

13. Will employees receive confirmation that their fingerprints have been submitted as required by SB 9?

The DPS vendor, L-1, provides a receipt after a person's fingerprints have been scanned. Employees should keep their receipts until their fingerprint process is completed. TEA suggests that districts ask employees to submit their receipt to the district as proof that they have submitted their fingerprints. SBEC and TEA will not have copies of these receipts.

14. What standards will TEA apply when deciding employability for noncertified individuals based on their criminal history?

Sec. 22.085(a) of the Texas Education Code applies to all public school employees. For noncertified employees, this very narrow standard is the sole basis for TEA review. The district's standards for employment will probably be much higher. It provides that a public school entity must discharge or refuse to hire an employee or applicant if:

1. the employee or applicant has been convicted of:
 - o a felony offense under Title 5, Penal Code (Offenses Against the Person);
 - o an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
 - o an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and
2. at the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.

15. When will SBEC and TEA notify certified educators and substitutes that they must submit national criminal history information?

SBEC and TEA, subject to available resources, will select districts in random order until all districts have been selected over the next three and one-half years. Once a district is selected, it will be notified that TEA and SBEC are about to conduct national background checks of the entire district's certified educators, as well as all its substitute teachers and classroom aides. The school district will then submit a list of all its active certified

educators, substitute teachers, and classroom aides to SBEC and TEA, which will in turn notify the district if any of these employees are required to be printed. Educators who received their initial certification after late 2003 should already have a completed fingerprint status and thus do not have to submit new national criminal history information. An email will be sent to those certified educators and to the district to notify them if they are required to complete the national background check. These educators have 80 days to submit their national criminal history information or their certificate will be rendered “Inactive”. The district will be notified that all substitute teachers and classroom aides not already in the clearinghouse must submit their information in 80 days or they will no longer be eligible to substitute for that district.

16. Once an educator has received his or her 80 day notice, what is the next step in the process?

The educator will go to the SBEC online website at <http://www.sbec.state.tx.us/>. The educator will either log into his or her existing SBEC account or create a new user account. After logging in, the educator will verify, update, and complete the required demographic information, including a current email address. The educator will then select fingerprint authorization, and after the criminal history review fee (\$42.25) has been paid by credit, debit, or pre-paid debit card (this fee will be waived for many certified educators as described below), the educator will receive an email that contains a FAST Fingerprint Pass. The email will be sent to the account listed in the educator’s SBEC file, so an active email account must have been entered during the verification process. The educator will then print the FAST Fingerprint Pass and must take it with him or her when fingerprints are submitted. No fingerprints can be accepted without a valid FAST Fingerprint Pass.

17. Which certified educators will not have to pay the criminal history review fee?

If the certified educator was a full-time employee in a school district during the 2006-2007 school year, **and is a full-time employee (all Substitutes must pay) at the time notice to submit fingerprints is given**, both the criminal history review fee (\$42.25) and the fingerprint capture fee (\$9.95) will be paid for by the State of Texas. If the certified educator was not actively working full-time in a Texas public school at the time the fingerprint requirement became law (2006-2007 school year), the certified educator will need to pay online to SBEC the \$42.25 criminal history review fee, and then pay the \$9.95 fingerprint capture fee to L-1.

18. Will certified educators be fingerprinted at regular L-1 locations?

The DPS approved vendor, L-1 Identity Solutions Company, has committed to providing mobile fingerprint capture units that will be sent to school districts. These units will be able to capture and transmit fingerprints for those educators whose fees will be paid by the state, and possibly for the remaining full-time certified educators if districts can make arrangements for payment of the fingerprint capture fees (the mobile locations will not be equipped to accept payment of the fingerprint capture fee). Those certified educators who are not available when the mobile units are on site, or whose fees are not waived and are not able to make advance arrangements for payment of the fingerprint capture fee, substitutes, and noncertified employees will contact L-1 at 888-467-2080 or www.ibtfingerprint.com/ to schedule an appointment at one of their regular locations. No matter the location, an educator must have a valid FAST Fingerprint Pass in hand to have his or her fingerprints scanned.

19. What is required for certified educators and substitutes hired after 1/1/08, but before a district is notified to submit its list of all its certified educators and substitutes?

Before a district is notified and submits its list to TEA and SBEC, all that is required is a name-based criminal history search for certified educators and substitute teachers (including educational aides). After the district submits its list, all new certified educators and substitutes will be required to submit national criminal history information if they are not already in the DPS clearinghouse.

20. What is the criminal history review process for charter schools?

1. Charter schools are required to submit the fingerprint information to DPS for TEA review of the national criminal history information of their noncertified employees hired on or after 1/1/08 in the same manner as school districts.
2. Charter schools are required to obtain name-based criminal history information of all their current noncertified employees in the same way as school districts.
3. Charter schools will be notified on the same random basis as school districts to submit to TEA their list of certified educators and classroom substitutes, and at the same time, will also submit a list of all noncertified employees covered by Education Code 12.1059 (teachers, librarians, educational aides, administrators, and counselors). All these employees will be subject to a national criminal history information review.

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