

New Fingerprint-Based Criminal Background Check Requirements for Independent Schools in Massachusetts

Governor Deval Patrick signed into law a requirement for fingerprint-based background checks for public and private school teachers, bus drivers, and childcare workers in Massachusetts, on January 10, 2013. Under the law, all public and private K-12 school employees in Massachusetts, as well as early educators, are required to submit to state and national fingerprint-based criminal background checks.

Employees Covered by the New Law

1. All newly hired school employees, including educators, maintenance staff, cafeteria workers, bus drivers, and employees of contractors who work in the schools and may have direct and unmonitored contact with children are currently required to complete the new national background check for the 2014-2015 school year.
2. Volunteers at schools will continue to be required to submit to state CORI checks at least once every three years, as currently required by the statute, but will not be required to submit fingerprints for the national checks.
3. For all current K-12 school employees and early educators, the law directs the Board of Early Education and Care and the Board of Elementary and Secondary Education to adopt regulations that phase in fingerprint-based state and national background checks prior to September 1, 2016.

Submission of Fingerprints and Applicable Fees

The fee charged for running the national checks is up to \$55 for school employees licensed under Section 38G (licensed educators and specialists) and up to \$35 for all others (i.e., school secretaries, cafeteria workers, janitors, bus drivers, etc.) and early educators. As is the case in almost every other state that conducts fingerprint-based national criminal history checks, **the fee is paid by the individual employee or educator, and the school can choose to reimburse employees for those fees at the school's sole discretion. As with any similar employment practice, if the school decides to reimburse members of a "peer group," then they must treat all of those employees the same, either reimbursing them all or reimbursing no one.**

Scheduling Fingerprinting Appointments

The school is responsible for notifying employees that a background check needs to be completed, and the employee will be required to schedule a fingerprinting appointment through the MorphoTrust USA Identigo™ online registration website or by calling the MorphoTrust USA Massachusetts Customer Service Center. Fingerprinting appointment for MA can be [scheduled here](#).

Key Points and Next Steps for School Administration

1. **Points of Contact Should Be Identified and Schedule Fingerprint-Based Checks:** Schools should identify which employees, substitute employees, student teachers, interns, subcontractors and school-commissioned laborers that perform work on school grounds may have direct and unmonitored contact with children (the "Points of Contact"). These Points of Contact should make appointments immediately with MorphoTrust to have their fingerprints scanned. Since there are currently only a few fingerprint-check sites in Massachusetts, travel may be involved.

2. **Covered Employees Should Be Identified:** Schools should identify which employees began work during the *2013-2014 school year only*, which is defined as starting employment after July 1, 2013. Employees who have worked at a school since before that date will be fingerprinted based on a schedule not yet released by the Massachusetts *Department of Elementary and Secondary Education* (DESE). If the school has conducted CORI checks on such employees, and their CORI results do not preclude employment, then these employees are required to proceed with the fingerprinting process via SAFIS (as described further below). If an employee has not yet been successfully CORI checked, then the employee must be CORI checked *before* undergoing a fingerprint-based check, as CORI results alone may preclude employment.
3. **Points of Contact and Employees Must Register for Fingerprint-Based Checks:** Schools should notify employees and the Points of Contact to register and make an appointment for a fingerprint-based check through [MorphoTrust](#). Schools should provide employees with the 8-digit DESE organizational code already issued to each school, which employees will use as the “Provider ID” during the registration process.
4. **Points of Contact and Employees Should Review Two Important Documents:** Schools should instruct employees and the Points of Contact to review two important documents:
 - a. [SAFIS Registration Guide for PreK-12th Grade Education](#)
 - b. [How to Change, Correct, or Update Your National Criminal History Record Response](#)

A consent form to authorize the collection of fingerprints will be provided via SAFIS/MorphoTrust as part of the registration process, but independent schools should consider having employees and Points of Contact sign an authorization and consent form provided by the school as well. After an employee completes the fingerprint enrollment appointment, MorphoTrust will send a receipt to the employee. The school’s designated Point of Contact should obtain a copy of this receipt from each employee. The receipt will provide the school with confirmation that the fingerprints were captured and will also include important reference information should the school need assistance from the Department of Criminal Justice Information Services (DCJIS) with regard to the fingerprint-based check.

5. **Schools Should Establish or Update Background Check Policies:** Schools should update their Criminal record and sex offender compliance materials and policies to include the new requirements (including contractor and sub-contractor checks).

For general questions about the new law, please call the Executive Office of Education at 617.979.8340.

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