

# FLORIDA DEPARTMENT OF EDUCATION



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## Technical Assistance Paper

### Fingerprinting/Background Screening Requirements of State-Approved Supplemental Educational Services (SES) Providers

**Summary:**

The 2005 Florida Legislature passed the Jessica Lunsford Act, which amended Section 1012.465, Florida Statutes (Background screening requirements for certain non-instructional school district employees and contractors.--), to require school districts to conduct state and national background screenings of non-instructional personnel and contractors, such as providers of supplemental educational services (SES) and their employees who are permitted access to school grounds when students are present or who have direct contact with students, or have access to, or control of, school funds. The 2007 Legislature further amended Section 1012.465, Florida Statutes, and created Sections 1012.467 (Non-instructional contractors who are permitted access to school grounds when students are present; background screening requirements.--) and 1012.468, Florida Statutes (Exceptions to certain fingerprinting and criminal history checks.--). A state and national background screening is a fingerprint-based criminal history records check of individuals for the consideration of disqualifying offenses respective to eligibility for employment or contracting with a Florida public school or district.

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## **Fingerprinting/Background Screening Requirements of State-Approved SES Providers**

### **A. GENERAL INFORMATION.....4**

- A-1. Are SES providers required to submit to a state and national fingerprint and criminal history background screening?
- A-2. What is the state and national fingerprint and criminal history background screening for SES providers?
- A-3. Who is responsible for the cost of fingerprinting and criminal history background screening and how much does it cost?
- A-4. Are providers who have signed contracts in multiple school districts required to submit to a fingerprint and criminal history background screening in each school district?
- A-5. Are contracted on-line or distance learning SES providers and tutors who have electronic access to students required to submit to a fingerprint and criminal history background screening?
- A-6. Can an SES provider undergo national (FBI) screening only and not state (FDLE) screening?
- A-7. May school districts condition the award of contractual services to an SES provider that all employees have undergone a state and national fingerprint-based background screening?
- A-8. Who makes the decision for approval of individuals who have been screened?
- A-9. Can an SES provider or one of its employees who failed to pass a criminal history background screening challenge the accuracy of the results?
- A-10. Who should an SES Provider contact in order to dispute the results of a fingerprint and criminal history background screening?
- A-11. Who is responsible for allowing and monitoring the access of a contracted SES provider and its employees to school grounds when students are present, when they have direct contact with students, and when they have access to or control of school funds?
- A-12. Can agencies share the results of a criminal history background screening with other agencies that require similar screenings?

## **A. GENERAL INFORMATION**

### **A-1. Are SES providers required to submit to a state and national fingerprint and criminal history background screening?**

Yes. An SES provider that is contracted with a school district and the individuals who are employed by the SES provider, who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds must submit to a fingerprint and criminal history background screening unless they are exempt under Sections 1012.467 and 1012.468, Florida Statutes. Florida Statutes may be viewed here: <http://www.flsenate.gov/Welcome/index.cfm?CFID=64806537&CFTOKEN=19170519>

### **A-2. What is the state and national fingerprint and criminal history background screening for SES providers?**

A state and national criminal history background screening is the process by which an individual's fingerprints are submitted to the Florida Department of Law Enforcement (FDLE) in order to obtain information regarding statewide criminal and juvenile records maintained by the FDLE as well as federal criminal records maintained by the Federal Bureau of Investigation (FBI).

### **A-3. Who is responsible for the cost of fingerprinting and criminal history background screening and how much does it cost?**

Florida law provides school districts with the authority to determine whether the costs associated with fingerprints and criminal history background screenings are to be borne by the school district, the school, the SES provider (as contractor), or the individual employed by the SES provider. However, pursuant to Section 1012.467(2)(a), Florida Statutes, the fee that is charged by the school district may not exceed 30 percent of the total amount charged by FDLE and the FBI. The cost for each screening varies but may not exceed \$58.

### **A-4. Are providers who have signed contracts in multiple school districts required to submit to a fingerprint and criminal history background screening in each school district?**

No. Once a provider has submitted to a fingerprint and criminal history background screening in one school district, the results are stored in the Florida Shared School Results (FSSR) database. The FSSR houses fingerprint and criminal history background screening results from individuals who have been fingerprinted in his/her capacity as a vendor/contractual personnel and who have submitted such fingerprints after July 1, 2007. Results from individuals fingerprinted as teachers or school district employees will not be stored in the FSSR. The provider is responsible for presenting the district with evidence that he or she has undergone a fingerprint-based criminal history background screening as a vendor/contractual personnel. Upon submission of evidence, the school district must verify that the results exist within the FSSR.

**A-5. Are contracted on-line or distance learning SES providers and tutors who have electronic access to students required to submit to a fingerprint and criminal history background screening?**

Yes. Florida law requires that state-approved SES providers (as contractual personnel) who have direct contact with students submit to a fingerprint and criminal history background screening as described in Section 1012.32, Florida Statutes, unless exempt under Sections 1012.467 and 1012.468, Florida Statutes. On-line or distance learning SES providers and tutors have direct access to confidential student information and direct contact with students via electronic mail and telephonic communication.

**A-6. Can an SES provider undergo national (FBI) screening only and not state (FDLE) screening?**

No. Individuals must go through the state (FDLE) and federal (FBI) repositories in order to obtain the state specific information and have the prints retained in accordance with Florida statutes.

**A-7. May school districts condition the award of contractual services to an SES provider that all employees have undergone a state and national fingerprint and criminal history background screening?**

School board contracts may impose that the award of contractual services is contingent upon all employees, who meet at least one of the criteria specified in Section 1012.465 Florida Statutes, passing a state and national fingerprint and criminal history background screening.

**A-8. Who makes the decision for approval of individuals who have been screened?**

Approval of individuals who have undergone a fingerprint and criminal history background screening is determined solely by the school or district with whom the individual is contracting.

**A-9. Can an SES provider or one of its employees who failed to pass a fingerprint and criminal history background screening challenge the accuracy of the results?**

Yes. Individuals are entitled to request a copy of relevant information if they dispute the accuracy of the results. It is the responsibility of the affected contractor to contest the results of a criminal history record. The only basis for contesting a denial is proof of mistaken identity or that an offense from another jurisdiction is not disqualifying under Section 1012.467, Florida Statutes.

**A-10. Who should an SES provider contact in order to dispute the results of a fingerprint and criminal history background screening?**

Those who wish to dispute the results of a criminal history record should contact FDLE Quality Control Section for Florida records and the FBI for out-of-state records.

**A-11. Who is responsible for allowing and monitoring the access of a contracted SES provider and its employees to school grounds when students are present, when they have direct contact with students, and when they have access to or control of school funds?**

School districts are charged with ensuring that contractors and vendors are properly screened and approved. Each school district must implement effective processes that cater to the unique aspects of each school. School districts may establish methods such as issuance of photo ID badges, sign-in logs, check-in points, or biometric technology to verify a positive match to the identification presented.

**A-12. Can agencies share the results of fingerprint and criminal history background screenings with other agencies that require similar screenings?**

State and national criminal history information may be shared between school districts only. Sharing criminal history information obtained for a specific purpose should be used exclusively for that purpose.