



## OFFICE OF FINANCIAL SERVICES

### Purchasing

Midland Independent School District  
615 W. Missouri Ave., Midland, TX 79701  
432-240-1000 • midlandisd.net

#### **MIDLAND INDEPENDENT SCHOOL DISTRICT FINGERPRINTING REQUIREMENTS FOR CONTRACTORS**

Texas Education Code (TEC) [§22.0834](#) and [§22.08341](#) state that a contractor that provides services to a school district or charter school must be fingerprinted before beginning work, if the contractor 1) will have continuing duties related to the contracted services, and 2) will have the opportunity for direct contact with students. Additionally, the law requires that a contractor certify to a school district or charter school that it has received all criminal history information for its employees who provide services for the school. Pursuant to §22.08341(c), the requirement does not apply to a contractor that performs construction, alteration, or repair of an instructional facility if the contractor uses separate sanitary facilities, installs a barrier fence, and has a policy that employees may not interact with students or enter areas used by students.

Pursuant to the Texas Government Code (TGC) [§411.0845](#), the Texas Department of Public Safety (DPS) maintains the Criminal History Clearinghouse (DPS Clearinghouse) to provide fingerprint criminal history record information to approved persons and entities. Additionally, the release of any criminal history record information provided by the U.S. Federal Bureau of Investigation (FBI) is subject to federal law, regulation, and policy.

In 2007, the FBI notified DPS that TEC §22.0834 failed to meet the requirements of Pub. Law 92-544 and that TEC §22.0834 should be amended to provide access to school districts only. During a 2019 FBI audit, the FBI instructed DPS that contractors cannot have access to national criminal history record information due to being considered a private entity. However, DPS has stated that school contractors may be granted access to fingerprint criminal history if the contractor qualifies for access under the National Child Protection Act (NCPA), specifically, if the contractor provides “care or care placement services” and is based in Texas. Under these criteria, contractors such as plumbers, pest control technicians, maintenance workers, and janitors would not be considered “qualified contractors.” According to DPS, another effect of the FBI audit is that school districts and charter schools should not be given access to fingerprinting criminal history results that a contractor obtained under NCPA, or to results from fingerprints taken by other agencies, such as the Tx Health and Human Services Commission (HHSC) for services such as early childcare.

#### **RECENT CHANGES TO ACCESS POLICIES:**

Due to requirements from a 2019 FBI audit, DPS will change how it grants Clearinghouse access to schools and contractors for the purposes of reviewing criminal history under TEC §22.0834. First, because the FBI does not fully recognize TEC §22.0834, school contractors will only be granted access to fingerprint results that were obtained under the federal National Child Protection Act (NCPA) if the contractor meets NCPA criteria. Additionally, schools will no longer be given access to fingerprinting results if they were obtained under NCPA authority or through another agency.

When these changes are implemented, school districts and charter schools will lose access to the criminal history records of individuals who were previously fingerprinted by contractors or by HHSC. Although the fingerprint results will be in the DPS Clearinghouse, the results will be partitioned and cannot be accessed. If school districts or charter schools need to review the criminal history of these individuals, they will need to fingerprint the individuals again.

School districts and charter schools may only access the records of individuals that districts printed under TGC §411.097, TEC Chap. 22, Subchapter C, or through a Local Education Entity (LEE) pass.



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#### **OPTION FOR ACCESSING THE DPS CLEARINGHOUSE GOING FORWARD**

The District may fingerprint a contractor and/or contractor's employees using the Local Education Entity (LEE) Fast Pass option. In this situation, all districts and charters will be able to view individuals printed with the LEE pass, and also create subscriptions in the DPS FACT Clearinghouse under the authority of TGC 411.097/Public Law 92-544. The contractor, however, will not be able to view the results through the DPS Clearinghouse.

It is the contractor's responsibility to have their employee's fingerprinted and any cost incurred.

Schools and contractors may request access to the DPS Secure Site FACT Clearinghouse by calling 512-424-2474, Option 1.

#### **REQUIRED VERIFICATION OF SUBSCRIPTION**

To ensure compliance with the FBI audit, DPS requests that school districts and charter schools review their Clearinghouse subscriptions to determine if the subscriptions are needed. DPS will be providing further instructions and guidance on how to review subscriptions.

Contact the DPS Fingerprint Services Unit by email at [fingerprint.service@dps.texas.gov](mailto:fingerprint.service@dps.texas.gov) or by phone 512-424-2474 – Option 6 for any questions or concerns about this process.

I, the undersigned agent for the firm named below, certify that my employee's or subcontractors will be fingerprinted if they have direct contact with students. I will contact the purchasing department to provide our employee's or subcontractor's information before the start date of the services being rendered.