**Background Check Requirements for School Districts**

Special thanks to Darcy Lane, Attorney, BOEE and Marsha McBee, Child Care Licensing, DHS for assistance in understanding application of background check requirements.

**New Law Text: SF 452 &ISFIS Translation**

District must check registries and court records prior to hiring employees, beginning July 1, 2013.

District must be able to document that existing employees were checked by June 30, 2014.

District must have a consistent policy for the same procedure to recheck every 5 years, based on employees initial date of hire, can’t charge the employee for the check, and must have documentation.

**Division XVII of** [**SF 452**](http://coolice.legis.iowa.gov/linc/85/external/SF452_Enrolled.pdf) **Standing Appropriations**

SCHOOL EMPLOYEES —— BACKGROUND INVESTIGATIONS

Sec. 137. NEW SECTION. 279.69 School employees ——

background investigations.

1. Prior to hiring an applicant for a school employee position, a school district shall have access to and shall review the information in the Iowa court information system available to the general public, the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding the applicant. A school district shall follow the same procedure by June 30, 2014, for each school employee employed by the school district as of July 1, 2013. A school district shall implement a consistent policy to follow the same procedure for each school employee employed by the school district on or after July 1, 2013, at least every five years after the school employee’s initial date of hire. A school district shall not charge an employee for the cost of the registry checks conducted pursuant to this subsection. A school district shall maintain documentation demonstrating compliance with this subsection.

If there’s a positive hit on one of the registries, it constitutes grounds for immediate suspension of duties, pending a termination hearing.

Defines school employee: individual employed by the district, including part-time, substitute or contract employee. Exempts employees under Iowa Code chapters 272.2(17) (BOEE governed regulated applicants for licensure), 279.13(1)(b) (licensed teachers that aren’t initial teachers but are required to be checked upon hire by the district, administrators, substitute teachers, non-teaching coaches), and bus drivers (because they are regulated under another Code section). Requires rechecks every five years based on anniversary date of hire.

2. Being listed in the sex offender registry established under chapter 692A, the central registry for child abuse information established under section 235A.14, or the central registry for dependent adult abuse information established under section 235B.5 shall constitute grounds for the immediate suspension from duties of a school employee, pending a termination hearing by the board of directors of a school district. A termination hearing conducted pursuant to this subsection shall be limited to the question of whether the school employee was incorrectly listed in the registry.

3. For purposes of this section, “school employee” means an individual employed by a school district, including a part-time, substitute, or contract employee. “School employee” does not include an individual subject to a background investigation pursuant to section 272.2, subsection 17, section 279.13, subsection 1, paragraph “b”, or section 321.375, subsection 2.

Sec. 138. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this division of this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this division of this Act by and enforcement of this division of this Act against all affected school districts.

**Note about BOEE licensure exception Code 272.2(17):** BOEE rechecks for licensure are done for initial applicants and licensure renewal for teachers, substitute teachers (both licensed and authorized), administrators, school business officials, school administration managers, paraprofessionals and non-teaching coaches. These are the positions that are not required to be rechecked every five years at the district level, since they are subject to BOEE authorization under 272.2(17) for either initial licensure or renewal. Teachers on permanent professional license do not go through a renewal process so are not exempted via Chapter 272.2(17). We advise they be checked by June 30, 2014 and every five years based on their anniversary date of hire.

**Relevant Code Sections and FAQ from BOEE web site regarding background checks follows:**

**Iowa Code 272.2(17) BOEE background check requirements**

17. Adopt rules to require that a background investigation be conducted by the division of criminal investigation of the department of public safety on all initial applicants for licensure. The board shall also require all initial applicants to submit a completed fingerprint packet and shall use the packet to facilitate a national criminal history background check. The board shall have access to, and shall review the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under chapter 235A, and the dependent adult abuse records maintained under chapter 235B for information regarding applicants for license renewal.

**Iowa Code 279.13 Contracts with teachers — automatic continuation — initial background investigations**.

1. a. Contracts with teachers, which for the purpose of this section means all licensed employees of a school district and nurses employed by the board, excluding superintendents, assistant superintendents, principals, and assistant principals, shall be in writing and shall state the number of contract days, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract may include employment for a term not exceeding the ensuing school year, except as otherwise authorized.

b. (1) Prior to entering into an initial contract with a teacher who holds a license other than an initial license issued by the board of educational examiners under chapter 272, the school district shall initiate a state criminal history record check of the applicant through the division of criminal investigation of the department of public safety, submit the applicant’s fingerprints to the division for submission to the federal bureau of investigation for a national criminal history record check, and review the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding the applicant for employment as a teacher

**Iowa Code 321.375 (2) Bus Driver Background Check Requirements**

2. Prior to hiring an applicant for a school bus driver position, including a contract position, an employer shall have access to and shall review the information in the Iowa court information system available to the general public, the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding the applicant. An employer shall follow the same procedure every five years upon the renewal of an employee’s or contract employee’s school bus driver’s license issued by the department of transportation valid for the operation of a school bus. An employer shall pay for the cost of the registry checks conducted pursuant to this subsection. An employer shall maintain documentation demonstrating compliance with this subsection

The following table describes the various levels of background check required and the relevant Code section which applies. Although not all levels of check are mandated for all positions, BOEE suggests it is good practice for school districts to also conduct a check for hiring purposes (question 7 highlighted below in BOEE FAQ). For information about the ISFIS background check service, ***What’sTheirBackground***, contact Marissa Gaal at marissa@iowaschoolfinance.com or [Click Here](http://iowaschoolfinance.com/background_check) to visit our background check web site.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Position** | **Iowa Code Section** | **District Check on Initial Hire** | **District charges employee for check** | **Fingerprint Required by the District** | **Registry Check Required** | **Iowa Criminal Court Records** | **National Criminal History Check** | **Recheck Mandated** |
| Teacher with initial license (1-2 years) | 272.2(17) | Not Mandated, but best practice |  | No | Not Mandated, but best practice | Not Mandated, but best practice | Not Mandated, but best practice | n/a |
| Teacher with standard license | 272.2(17) 279.13(1)(b) | Yes | allowed | Yes | yes | yes | yes | No – BOEE rechecks w/renewal |
| Master Teacher with standard license | 272.2(17) 279.13(1)(b) | Yes | allowed | Yes | yes | yes | yes | No – BOEE rechecks w/renewal |
| Teacher with permanent professional license | Unclear | yes on new hire | allowed | yes on new hire | yes on new hire | yes on new hire | yes on new hire | Yes: BOEE doesn’t do a renewal check, and No: if district did a finger-print and check upon initial hire, then IC 279 exemption applies |
| Substitute Teacher (either license or authorization) | 272.2(17) | must if offered a 279 contract, but best practice for all | allowed if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | No – BOEE rechecks w/renewal for either sub license or authorization |
| School Nurse with SPR | 272.2(17) | yes if offered a 279 contract | allowed if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | must if offered a 279 contract | No – BOEE rechecks w/renewal for either sub license or authorization |
| School Nurse without SPR | 279.69 | Yes | prohibited | No | yes | yes | Not mandated, but best practice | Yes, every 5 years in anniversary year of employment  |
| Paraprofessional | 272.2(17) | Yes |  | No | yes | yes | Not mandated, but best practice | No – BOEE rechecks w/renewal |
| Non-teacher Coaches | 272.2(17) | Not mandated, but best practice |  | No | Not mandated, but best practice | Not mandated, but best practice | Not mandated, but best practice | No – BOEE rechecks w/renewal |
| Bus Driver | 321.375 | Yes | prohibited | No | yes | yes | Not mandated but best practice | Every 5 years, district does recheck when license is renewed pursuant to 321.375 |
| **Position** | **Iowa Code Section** | **District Check on Initial Hire** | **District charges employee for check** | **Fingerprint Required** | **Registry Check Required** | **Iowa Criminal Court Records** | **National Criminal History Check** | **Recheck Mandated** |
| Administrators | 272.2(17) | Not Mandated, but best practice |  | No | Not Mandated, but best practice | Not Mandated, but best practice | Not Mandated, but best practice | No – BOEE rechecks w/renewal |
| Preschool Teacher | 272.2(17), 279.13(1)(b) and DHS rules 441.109.9 | Yes | yes | Yes | yes | yes | yes | No – BOEE rechecks w/renewal |
| All preschool employees other than teachers (*If preschool is licensed by DHS*)If not licensed by DHS, new requirements and timelines apply. | DHS rules 441.109.9 and 279.69 | If answer yes to any of 3 questions if person: is in ratio? direct responsibility for a child? has potential to be alone with a child? | prohibited | Yes: DHS form 595-1396 check must be done on initial hire and fingerprinted every 4 years. | Yes – different intervals if DHS licensed facility. | Yes: Rechecked every two years if PK is a DHS licensed facility. | Yes: Rechecked every four years if PK is a DHS licensed facility. | Every 5 years if person is a district employee and facility isn’t licensed by DHS.  |
| School business official or school administration manager\* | 256.7(30) and 272.2(17) | Not Mandated, but best practice |  | No | \*for those SBO’s and SAMs working toward certification, a district-generate background check is recommended. |  |  | No – BOEE rechecks w/renewal |
| Subcontracted employees/services | 272.2(17) may apply  | Unclear definition of how “subcontracted employees” differs from subcontracted services. DE is advising schools to contact their attorneys. |  |  |
| Including, but not limited to: cooks, custodians, secretaries, painters, mechanics, bus monitors, substitute or temporary employees, nurse without SPR | 279.69 | Yes | prohibited | No | yes | yes | Not mandated but best practice | Every 5 years in anniversary year of employment  |
| Volunteers | Not regulated | Not Mandated, but best practice  |  | No | Not mandated but best practice | Not mandated but best practice | Not mandated but best practice | Not mandated but best practice |
| Student Teachers | Covered by university prior to practicum experience (and they are not an employee of the district, so no district mandate to investigate) |

**ISFIS Background Check Requirements FAQ**

*Q1: Are teachers and administrators the only staff members that the cost of the check can be passed on to? Non-certified and bus drivers the district has to pay the cost?*

A: Iowa Code prohibits passing the cost of the check on to bus drivers and this new class of employees that excludes those covered by BOEE licensure. Iowa Code allows the district to charge teacher applicants for the check. There is no allowance to or prohibition from charging administrators. Select the “Iowa Background Check Requirement Guide for School Districts” on the [ISFIS Background Check website](http://hyl439-site0002.maxesp.net/Services/BackgroundCheckProgram.aspx). Page 3 of the requirement guide contains a chart that indicates when you can and can’t charge an employee or applicant for their background check.

*Q2: Where can I get a copy of the sample tracking form for the background checks?*A: [Background Check Tracking Software Template](http://files.isfis.net/sites/files.isfis.net/files/filedepot/Background%20Check%20Tracking%20Software.xlsx)

*Q3: If a non-certified employee has had a background check in the last year for a different organization such as 4H or other organization would we still have to conduct another one?*A: It’s prohibited by Iowa Code 692.2(5) for a group conducting the background check to share with a third party that is not a criminal/juvenile justice agency, so if the district conducted the check for the 4H and you already have the documentation, you might be OK, but not otherwise. You would also have to be able to document that the registries and Iowa court records were both checked prior so the check lived up to the rigor in the new law.

*Q4: Can a contract be offered for a teaching position that is not in the first two years before the fingerprints and check are done if all other registries are checked?*A: Yes, but its recommended that districts offer the position contingent on the fingerprint check coming back clean. That’s one reason districts choose to use a background check service to confirm an initial indication of a clean record within 2-4 days rather than waiting the 4-6 weeks to offer the contract and potentially losing a good candidate.

*Q5: Can the checks be included with the personnel file or must they be kept separate?*
A: DHS rules require the check documentation to remain in the personnel file. Nothing in Code applying to school employees either requires or prohibits where the background check documentation would go, but keeping it the employee’s personnel file helps protect the employee because it’s confidential record and includes a social security number, so also worthy of confidential record status.

*Q6: Can we automatically conduct the rechecks or does the employee need to sign-off again?*A: The employee needs to sign the release form. Iowa DHS will not allow a predated form for the registry checks. It’s recommended that the employee sign and date a current form for each criminal record check as well. If the district is able to get permission from the employee on one form for every 5 years on the criminal records check request, we’d suggest the form be specific about the timing of future checks so it isn’t open ended for the employer to check anytime.

*Q7: Do substitutes need to be checked every 5 years even if they do not have a contract?*A: Substitutes are licensed or authorized under chapter 272 of the Iowa Code, by the BOEE, so exempt from the district mandated recheck. BOEE does their recheck every 3 or 5 years depending on the level of substitute licensure. Select the “Iowa Background Check Requirement Guide for School Districts” on the [ISFIS Background Check website](http://hyl439-site0002.maxesp.net/Services/BackgroundCheckProgram.aspx). Page 3 of the requirement guide contains a chart that indicates how often different classifications of staff need to be checked.

*Q8: Do substitute teachers need to be fingerprinted upon hire even if they are not a contracted employee? We do not guarantee our substitutes hours and often times after they are approved to substitute they end up never subbing. We currently conduct criminal checks but do not do fingerprinting.*A: Fingerprinting is only required on initial hire if the district is offering the substitute a Chapter 279 contract, so the district is not required to fingerprint short term subs (unless the substitute is working in a DHS licensed preschool). Additionally, if it’s a long term sub offered a contract and the applicant is still in their initial license, then the district doesn’t need to fingerprint them at all.

*Q9: Where can I get the PowerPoint Presentation and webinar recording held on 07.09.2013 regarding the new Iowa background check law?*

A: [PowerPoint](http://www.myotherdrive.com/dyn/file/910.214210.09072013.69429.6a6afi/July%2B9%2BSpecial%2BTopic%2BWebinar%2BBackround%2BChecks%2Band%2BCedar%2BRapids%2BCase.pptx) & [Recording](http://youtu.be/wfK4cVuIbzM) All ISFIS PPT presentations and recordings are posted on the ISFIS Webinar page.

*Q10: Do ALL preschool employees need Fingerprinted even if they are not licensed teachers such as teacher associates?*A: All PK employees in preschools licensed by DHS, need to be fingerprinted based on a yes answer to any one of three questions: 1) Is the person in ratio? 1) Does the person have direct responsibility for child care (responsible for the care, supervision, and guidance of a child?) or 3) Does the person have access to a child when the child is alone? A yes answer to any of these questions triggers the DHS process IF THE FACILITY is DHS LICENSED. Their check includes an Iowa criminal history check via SING, the DCI national criminal record fingerprint check by the DHS with a copy of the 595-1396 DHS Criminal History Record Check Form B in their file. DHS staff has confirmed the process for preschools and child cares licensed by DHS and provides a FAQ on DHS rules which can be found posted on the ISFIS site <http://www.iowaschoolfinance.com/Guidance>. Lastly, the DHS rules also exempt teachers and others licensed, thus renewal checked by BOEE from both the fingerprint or criminal records recheck.

*Q11: Does DCI still qualify as using their service to conduct these background checks if we are currently using them?*
A: If this is for preschool, Yes, according to DHS rules, evidence of the DCI national criminal search, form 595-1396 must be in the preschool employee’s file. DCI does the national fingerprint search, but that's beyond the mandate of these new SF 452 requirements, may cost more and takes longer.  We don’t know if DCI checks the registries or the Iowa Courts online in addition to the national criminal check so we cannot confirm if their search satisfies this limited mandate on the recheck or initial hire for school employees.

*Q12: How do I initiate a fingerprint for a teacher applicant?*
A: If the teacher applicant is not under an initial license (districts are not required to fingerprint beginning teachers), you may contact DCI’s Criminal History Dissemination Unit at 515-725-6066 to initiate the process. The unit handles fingerprinting and criminal history checks. For more information, visit <http://www.dps.state.ia.us/DCI/supportoperations/crimhistory/obtain_records.shtml>

*Q13: Do we do a background check on part-time summer only teen working for maintenance while school is not in session?*A: Yes - they are a part time employee so must be checked under new Code section 279.69.

*Q14: What about the subcontractor who mows the grounds at various buildings? Do we do background checks on all of their employees? If you hire a plumber to come and clean the drains and you are paying him to do that do you have to do a background check?*
A: Perhaps: more specific guidance for checks on subcontractors is needed. The law defines school employees for the purposes of the background check requirements as an individual employed by a school district, including a part-time, substitute, or contract employee. Use of the highlighted words above are important, individual is not a corporation, employee has meaning, and the legislature didn’t say independent contractor, but instead said contract employee. There are conflicting definitions for IRS, Department of Labor and state and federal law purposes. The good news is that districts have until June 30, 2014 to conduct the recheck. Our advice is to not rush into it, wait until further guidance comes forth. Keep in mind the intent of the legislation to keep kids safe. You might ask your contractor/subcontractor to assign a specific crew to your district and only have those few deliver the service so you don't incur the expense of several checks if it becomes interpreted that all subcontractors must be checked by the district. A good sense first test question might be: does the district contract with and cut a check to an individual? We will update the guidance and FAQ as we learn more. Stay tuned.

*Q15: Can a new probationary employee begin work prior to the background check being completed?*A: The law says "prior to hiring" an applicant for school employee, the district shall review the registries and Iowa court information system.  That language doesn't allow for a provisional hiring.  Under Iowa Code Chapter 279, school districts have offered teachers contracts contingent on a clean fingerprint check coming back, but they might wisely choose to do the national criminal check first so they have a good indication in just a couple of days while they are waiting for the fingerprint verification which can take weeks or months. That Code language regarding teachers is a little different - it says prior to entering into a contract, which has a different nuance than “prior to hiring”, which is very clear.

*Q16: What do you do if an experienced employee who is in good standing refuses to sign the consent for the background check?*
A: If the employee refused to sign permission for the check, it could be grounds for termination. This is a legal mandate on the district and should be considered a condition of the individual’s continued employment with the District. However, the District will not be allowed to do the background check without the permission of the employee. If an individual refused to sign a permission form during initial hiring, the individual would be eliminated from consideration since the permission form is part of the application process. Schools should review their hiring and employment policies and procedures regarding background checks as a result of these new requirements. It’s suggested that districts consider adding a statement to the employee handbook that says approval of the form for background recheck required by law is a condition of continued employment.

*Q17: Do you only need an initial authorization, or do we need new authorization each year? Do we have to go back and conduct a background check of a veteran employee, a 20-year employee?*
A: You need a new authorization if the initial one didn't forecast a recheck for a criminal record check and you must have a new one for the DHS registry checks. Even the 20-year veteran employee must be checked (not a teacher or other individual licensed by BOEE, however since they are not included in the definition of who should be checked).

*Q18: I am unclear as to specifically who needs an every 5 year recheck? Everyone except teachers and administrators?*

A: Licensed employees (teachers, administrators, substitutes, nonteaching coaches, school business officials, non-teaching coaches) are all rechecked by BOEE so excluded from this mandate for districts to conduct the 5-year recheck in their employment 5-year anniversary year. Bus drivers are rechecked every 5 years on when their license to operate the bus is renewed. Select the “Iowa Background Check Requirement Guide for School Districts” on the [ISFIS Background Check website](http://www.iowaschoolfinance.com/Guidance). Page 3 of the requirement guide contains a chart that indicates how often different classifications of staff need to be checked to satisfy the law. School districts may have policies which require rechecks on all employees otherwise exempt from this new mandate.

*Q19: If we hire a check service, will they look at our existing checks to make sure we are in compliance?*
A: Doubtful.

*Q20: Who offers background check services? Cost?*A: If you want to look into WhatsTheirBackground, email marissa@iowaschoolfinance.com or call her at 515.251.5970 or visit our [ISFIS Background Check website](http://www.iowaschoolfinance.com/Guidance).

*Q21: Is the ISFIS background check a "one-stop shop" for the new mandates? (ie: does it include the Iowa Court Records & the Nat'l Criminal History Check)?*

A: yes - and more. But everything mandated is included. Other packages are available.

*Q22: In the summer, we hire some students to do Bldgs & Grounds work, or IT Tech work. Some of these are under 18 - would a background check reveal anything for them?*A: Information returned on a minor can be very limited as most of the information is sealed by the court. The mandate to conduct the check is all that is required of the district. There is no prohibition from hiring the student under 18 as long as the registry checks come back without a hit. Local policy will guide the district response to criminal check information.

*Q23: What about service people that come in to do work and fix things?*A: Service people may need to be checked by the district if the district pays the individual as an employee or a contract employee (see Q14 above – additional guidance pending).

*Q24: If an elementary school hires a group to come in and do a play/performance at a school assembly does a background check need to be done for all the performers?* A: Service people may need to be checked by the district if the district pays the individual as an employee or a contract employee (see Q14 above – additional guidance pending).

*Q25: Since these background checks are now mandatory, do we have to have employees sign the background check form?*A: Yes, it's a federal law that the employee sign the consent to do the check.

*Q26: If we have 70 staff who have worked for the district for 20 plus years, can we put them into a five year rotation to get them re-checked since we haven't done a background check since their hire date?*
A: They must all be checked with the district being able to provide documentation by June 30, 2014. After this initial transitional check, then the 5-year anniversary year cycle kicks in. For examples, if an employee is in their 3rd year of employment in 2013-14, then they will be rechecked this year and again in 2015-16 to comply with the 5-year cycle requirement.

*Q27: If we have a teacher who has been on staff 20 years, never had the fingerprint process completed – do we need to do the complete check prior to June 30, 2014?*A: There is no requirement to fingerprint the permanent professional licensed teacher unless that teacher is a new applicant/hire in your district. Even though there is no mandate on the district, BOEE has confirmed they don’t go through a licensure renewal process for this category of license either. Our opinion is that the exclusion of employees covered by Iowa code 272.2(17) only applies to those licenses checked by BOEE through a renewal process. Our best recommendation would be to conduct the registry checks and at least Iowa court criminal records, also best practice to do the national criminal check during this year and every 5 years based on the employee’s 5-year anniversary years.

*Q28: If a high school hires a DJ for prom, does the DJ need a background check completed?*A: Maybe: What it boils down to is who is the entity that pays the DJ?  If it's the district, that's a contract for employment (perhaps – see Q 14 with guidance pending). If it's the prom committee or the boosters that pay the DJ and there is no subcontract (ie., the district paying the boosters and the boosters paying the DJ) it’s likely that no check is required by the district.

*Q29: If a District contracts for a charter bus does the District need to do a background check on that driver of the charter?*A: If the district is subcontracting with the charter for transportation services, then yes, the district has to do the search governed by Iowa Code 321.325 which specifically says bus drivers must be checked whether employed by the district or contracted.

*Q30: What is the cost for your service?*A: There are several packages - the basic which meets the requirements in this law and does the social security number verification, national check and a few other things, is $26.50. There are other packages for more thorough checks, including the $6 upcharge for motor vehicle records. Marissa can give you more details – marissa@iowaschoolfinance.com

*Q31: Does this new law require the background check to be a DCI check?*
A: No requirement for fingerprinting or DCI check, just the three DHS registries and Iowa court records.

*Q32: The background form you were mentioning, is this the same form from the DCI?*A: Each background company requires applicants to sign release forms and the DCI has their own procedures. If you would like a copy of what we use at What’sTheirBackground please contact marissa@iowaschoolfinance.com

*Q33: There seems to be a lot of guidance on doing the background check itself - but is there a guidance on what to do if we have a hit?*
A: If there is a hit on the sex offender registry, Iowa adult abuse registry or Iowa child abuse registry the district has grounds to suspend the employee and proceed with a termination hearing. If the district chooses this route, the only subject of the hearing is whether the employee is on a registry. If there is a hit on the criminal search, refer to your local policies regarding whether the employee was required to inform the district of a criminal arrest or conviction and/or whether the offense offers sufficient concern for termination. Considerations might include time that’s passed since the offense, honesty of the individual during the application process, and severity of the offense related to the employee’s duties. Call your school attorney in either case.

*Q34: A teacher has been with the district for 10 years. There is no evidence a background check was performed with their hire. The school must perform a background check now, correct? But there is no requirement to check the instructor again. Right?*A: there is no mandate to recheck teachers once already employed. BOEE is doing that on renewal - but its good practice to have the district assure the check and have the documentation. However, the district should have the initial background check with fingerprints on file, so district would still be out of compliance even if you attempted to recheck fingerprint, so we don’t see any upside to attempting the fingerprint again – check with your school attorney on next steps.

*Q35: We want to hire a teacher who has 7 years of experience. How does the district submit finger prints for the back ground checks?*A: You may contact DCI’s Criminal History Dissemination Unit at 515-725-6066 to initiate the process. The unit handles all the state and national criminal history checks. For more information, visit <http://www.dps.state.ia.us/DCI/supportoperations/crimhistory/obtain_records.shtml>

*Q36: What documentation is required for fingerprinting?*A: You may contact DCI’s Criminal History Dissemination Unit at 515-725-6066 to confirm what information you receive after the fingerprint is done. The unit handles all the state and national criminal history checks. For more information, visit <http://www.dps.state.ia.us/DCI/supportoperations/crimhistory/obtain_records.shtml>

*Q37: Services available for fingerprinting by the school district?*A: DCI is the only entity to do the fingerprinting - and that is only required for teachers new to the district that aren't initial teachers and preschool employees that meet DHS conditions for checking. Fingerprinting is not mandated for anyone else and it's more potentially more expensive than a thorough national criminal record check.

*Q38: With getting fingerprints for all new to the district teachers, does that also include getting fingerprints from new administrators (superintendent, principal, etc.)?*A: The Fingerprint requirements are tied to a Chapter 279 contract, so not mandated for administrators. BOEE does the fingerprinting on administrators initial and renewal of license, but the district could check if board policy directed. The national criminal check done in compliance with best practice is as good as the fingerprint in finding records.

*Q39: – I know we need to have documentation beginning July 1, 2013 – does that mean if someone was hired 15 or 20 years ago, we do not need to do anything if there is not a background check on file?*

A: The beginning date applies to new hires - so for employees hired after July 1, 2013, you need to do the initial check.  The transitional date says that all employees (with those exceptions stated of teachers, bus drivers, others licensed by BOEE and those for whom a recent background check is already on file) must be checked by June, 30, 2014.  So there's a year to do the make-up check to get through the transition.  Then the 5-year anniversary of employment cycle kicks in for rechecks.  If the person hired 20 years ago is a teacher or other employee governed by BOEE, the law doesn't mandate the recheck.

*Q40: We have been doing checks for the last 10 years, so we should be in compliance already I believe. The only change we would need to make would be implementing the rechecks on those applicable to that law in 2018 right?* A: Perhaps, but any employees with more than 10 years of service (not teachers/bus drivers/ administrators) would still need the transitional check.  And it's not as simple as rechecking everyone in 2018.  The law says 5 years after hire date and every 5 years thereafter.  So even though some will be checked again in 2 years or 3 years, or whenever their 5-year increment anniversary date is, it will all even out by 2018.

*Q41: We’re wondering about those licensed teachers who have the permanent professional status, so they don’t go through the BOEE every 5 years like most licensed teachers – would the district need to recheck them?* A: The exception under the definition of employees in the new law ties back to Iowa Code 272.2(17) and that covers licensed teachers who undergo license renewal. This would not apply to permanent professional teachers. The subsection 17 of Iowa Code is specific to a background check done during the licensure renewal process. Since teachers with permanent professional stats do not seek license renewal, the BOEE has never conducted a background investigation. The legislative intent of SF 452 is that all employees have been checked. Our recommendation is that districts conduct a check on permanent professional status teachers by June 30, 2014 and every five years in the anniversary year of their date of hire. There is no mandate for the district to initiate a fingerprint investigation, however, since new code 279.69 covers all others, the minimum mandate is to check the three DHS registries and the Iowa criminal records. Best practice would also suggest a national criminal search, social security number verification, etc. but not the fingerprint.

*Q42: And, we’re also wondering about substitute teachers* A: For substitutes, if they are initial teachers and still within their first two years, there is no check mandated at all. They just went through it with the BOEE.  For those more experienced subs, they also fall into that category of 272.2(17) since they go through licensure, so no mandate on the district to check. There is also no requirement to fingerprint through DCI unless they are offered an Iowa Code Chapter 279 contract, which kicks over into the mandate to fingerprint and check the registries before offering the contract. Best practice would suggest a background check on initial hire of all employees, including licensed employees since its unknown what the BOEE saw in the criminal records.

*Q43: It looks like the new law requires background checks of contracted employees. How about officials of athletic games, speech & music contests, etc.?  They have a lot of contact with students.  Please advise.* A: See question 14 about contracted positions – does the district pay the referee and is the referee considered a subcontracted employee? DE advises checking with your school attorney.

If you have additional questions not answered by this FAQ, please contact

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**BOEE FAQ on Background Checks** [**http://www.boee.iowa.gov/backgrnd.html**](http://www.boee.iowa.gov/backgrnd.html)

Question 1: When did background checks begin?
Answer: October 1, 2000 for initial licensure
July 1, 2006 for renewals

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Question 2: Who will be required to have a background check?

Answer: All initial and renewal applicants; teachers, coaches, administrators, paraeducators, anyone from out-of-state, substitutes, and behind-the-wheel authorizations

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Question 3: What exactly is a background check?

Answer: A person signs a waiver allowing the Iowa State Division of Criminal Investigations and the Federal Bureau of Investigations to conduct a background check. An FBI fingerprint card is also submitted and sent to the FBI lab. The child abuse registry, sex offender registry, and the dependent adult abuse registry are all checked. The results of all the state and national criminal background checks are sent to the Board of Educational Examiners for review.

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Question 4: If someone had an Iowa license, let it expire, and then decided to re-activate or renew the license, will a background check be required?

Answer: Yes, all initial applicants and renewal applicants.

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Question 5: How much does it cost?

Answer: The total cost is $65 (as of July 1, 2009) for initial applications. These fees are in addition to the regular license and evaluation fees. There is no fee for a background check on a renewal application.

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Question 6: Can the information found on either the DCI or the FBI be shared with a local school district?

Answer: No. The State of Iowa law prohibits the Board, or any authorized agency, to share this information with a third party.

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Question 7: Should local school districts conduct their own background checks?

Answer: Yes. The Board of Educational Examiners conducts background checks for licensure only. Federal law allows school districts to conduct background checks, for example, for hiring purposes.

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Question 8: Is it true that the results from the FBI fingerprints may take four to eight weeks?

Answer: Yes. In some instances, it may take longer.

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Question 9: How will that affect the licensure application?

Answer: The DCI check is completed within a few days. However, the FBI results take longer. The Board has created and implemented a document called a "Temporary Permit". This one-page document allows a person to seek employment, interview, sign a contract, accept a position, and begin teaching or administering. The "Temporary Permit" will list the endorsements earned and expiration date. This permit will be good for 90 days. Upon successful review of the FBI results, the applicant will be issued a license/authorization/certificate.

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Question 10: In what circumstances would a second Temporary Permit be issued by the Board?

Answer: It would be very unusual for the Board to issue a second Temporary Permit. However, a second Temporary Permit may be issued if 1) the FBI results take longer than 90 days, 2) the FBI cannot read the fingerprints and request a second set of fingerprint cards, 3) a person's fingerprints are essentially unreadable by the FBI and other measures may be implemented, or 4) other extenuating circumstances that need to be considered.

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Question 11: When will the license be issued?

Answer: When all information has been processed except for the FBI background check, the Board will issue at Temporary Permit, which is good for 90 days. This Temporary Permit has the same authorization as a license. A person can present this Temporary Permit to a school district for employment or it can be used to verify Iowa licensure.

When the Board receives clearance from the FBI of an individual's national criminal history, a regular license will automatically be issued to the individual.

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Question 12: Who reviews the criminal history records?

Answer: The Board's investigator, Executive Director, and the Board's legal counsel review them.

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Question 13: What is the process for reviewing an applicant's criminal conviction history?

Answer: The Board looks for felonies, misdemeanors, and founded child abuse reports. As required in Iowa Code 272.2.14, the Board must consider the following: 1) the nature and seriousness of the founded abuse or crime in relation to the position sought, 2) the time elapsed since the founded abuse or crime was committed, 3) the degree of rehabilitation which has taken place since the incidence of founded abuse or commission of the crime, 4) the likelihood that the person will commit the same abuse or crime again, and 5) the number of founded abuses committed or criminal convictions by the person involved.

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Question 14: Does an individual need to divulge criminal activity if it occurred when he/she was a minor?

Answer: It depends. If a minor is accused of criminal conduct and found guilty by a juvenile court, the finding is referred to as an "adjudication" rather than a "conviction". Technically, a juvenile adjudication is outside the Board's inquiry. In some circumstances, jurisdiction is transferred by the juvenile court and minors are charged and convicted as adults. In those cases, a "conviction" occurs, which must be disclosed. Whether an individual needs to divulge criminal activity when he/she was a minor depends upon whether the matter was considered by the juvenile or adult system. If juvenile court adjudication - no, if conviction in district court - yes.
Deferred judgments must also be disclosed. In 2003, the Iowa Supreme Court decided that an incident with a deferred judgment will be considered when making licensure decisions, because a deferred judgment is a conviction. The individual was either found guilty of, or pled guilty to the incident, and the incident must be disclosed. Although sentencing or penalty may not be imposed if the individual successfully completes the probation, a deferred judgment is still considered a conviction and must be disclosed.

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Question 15: Does the Board review the answers to the criminal history questions provided by the applicant for possible fraud?

Answer: Yes. The Board examines the application to determine if the person answered the questions truthfully. If the applicant checked "yes" to any of the questions, the Board reviews the information provided by the applicant against the actual criminal history record. If the applicant checked "no" to any of the questions but was found to have a conviction, the application may be considered fraudulent and the application may be denied.

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Question 16: Why would an applicant be denied a license, an authorization, or a certificate?

Answer:
- The applicant failed to tell the truth

- The applicant's criminal history was serious enough to warrant a denial

- The applicant failed to provide the Board with additional information required by the Board

- The applicant provided a fraudulent license, transcript, or other official document

- The applicant's license, certification, or authorization from another state is suspended or revoked

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Question 17: Is there an appeal process if the application is denied?

Answer: Yes. Iowa Code 272.7 states that the Executive Director may grant or deny license applications. The decision may be appealed by the practitioner to the Board.