

**Texas Association of School Administrators
Senate Bill 9 – Frequently Asked Questions**

There has been much confusion surrounding the newly required criminal history checks as required by the passage of SB 9 during the recent 80th Legislative Session. Below is a compilation of frequently asked questions related to SB 9 that have been asked of TASA staff.

The information contained below was gathered from multiple sources including documents prepared by TEA and SBEC, which can be located at www.sbec.state.tx.us, www.tea.state.tx.us, and www.sbec.state.tx.us/SBECOnline/fp/SB-9_Status-Report_ver-4.pdf TASA staff will continue to monitor the implementation of SB 9 and provide additional information as it becomes available.

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

- All certified educators [those holding an educator certification issued by the State Board for Educator Certification (SBEC)] by September 1, 2011.
- All classroom substitute teachers and aides, whether certified or not by September 1, 2011.
- Noncertified employees hired by a district on or after January 1, 2008, must submit fingerprint information to DPS before starting to work for a district. 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.
(Note: noncertified employees hired *prior* to January 1, 2008, *only* need a name-based check to be obtained as soon as possible)
- 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 must submit by September 1, 2011.

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 (a.k.a. L-1 or IBT) 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, 888-467-2080.

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. (Note: Name-based checks are submitted by a school district to DPS through a separate process than that of the fingerprint based test)

- Noncertified employees hired before January 1, 2008
- Contractor employees hired before January 1, 2008, who has or will have continuing duties related to the contracted services and has or will have direct contact with students. Contractor employees include independent contractors and employees of subcontractors (Note: Contractor employees that are hired *after* 1-1-08 and have continuing duties related to the contracted services and direct contact with students are required to be fingerprinted. TEA is expected to offer additional guidelines in this area through the rule making process)
- Student teachers as soon as possible
- 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
- Charter school employees who are NOT working in a teaching or professional position that would require certification if they were employed in a traditional school district and were hired prior to January 1, 2008

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 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 to 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.

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

SBEC and TEA 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 all the 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 already in the DPS clearinghouse.

Educators who received their initial certification on or after October 1, 2003, should already be in the clearinghouse and thus do not have to submit new national criminal history information. An email will be sent to certified educators who are not in the clearinghouse and to the district to

notify them that 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.

What is required for certified educators and substitutes hired *after* January 1, 2008, 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.

Which certified educators would 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, 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 or district 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.

Potential employees are having trouble scheduling fingerprint appointments at available sites because timely appointments are not available. What should they do?

To remedy this problem, IBT (fingerprinting vendor a.k.a. L-1) is working to enhance its website features so that individuals are alerted to several alternative sites for setting up an appointment. In the meantime, if you are scheduling appointments, please investigate alternate sites. If your applicants do their own scheduling, please encourage them to look at the alternate sites, as well. We recognize that some of those alternative sites will require a longer drive, but depending upon the location of the individual, the alternate site may not be an unreasonable distance to travel.

To specifically improve availability in the Fort Worth / Dallas area, IBT is installing new devices in McKinney and Hurst and increasing the number of appointments available each day per device in Dallas and Hurst. Also, at least two Dallas and Fort Worth area school districts will begin fingerprinting their own applicants and submitting those fingerprints directly through IBT to DPS.

IBT will also take the following additional steps to make more appointment times available:

- Additional new sites will be installed in North Dallas, Greenville, Lewisville, Tyler, San Antonio, Houston, Texas City, and Pharr.
- IBT is entering into contracts with interested districts to purchase equipment and do their own fingerprinting. Those prints are submitted to DPS via the IBT network and processed in exactly the same manner as from the other devices. Five (5) districts (including the two in the D/FW area) have already issued purchase orders
- Within 30 days, 20 new sites will be installed at Real Estate exam centers to service Real Estate applicants, which will allow more applicants to be processed at sites used by

- districts.
- Based on availability, IBT will come to a school district and do a special printing session if the district can gather 30 persons or more at one time. Districts can coordinate with each other to gather groups large enough for IBT to do a group printing session.

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:
 - a felony offense under Title 5, Penal Code (Offenses Against the Person);
 - an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
 - 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.