

Fingerprinting Information Summary

603 CMR 51.00 Criminal History Checks for School Employees

Regulations <http://www.doe.mass.edu/lawsregs/603cmr51.html?section=all>

Definitions: <http://www.doe.mass.edu/lawsregs/603cmr51.html?section=02>

Criminal History Record Information (CHRI): Information provided by the FBI and the Massachusetts State Police State Identification Section, through the Massachusetts Department of Criminal Justice Information Services (DCJIS). CHRI is defined by the FBI as any notations or other written or electronic evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person that includes identifying information regarding the individual as well as the disposition of any charges.

Criminal Justice Information (CJI): For the purposes of 603 CMR 51.00, CJI refers to data provided by the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division (CJIS) to civil agencies to perform their mission; including, but not limited to data used to make hiring decisions.

Department: The Massachusetts Department of Elementary and Secondary Education.

Department of Criminal Justice Information Services (DCJIS): The Commonwealth agency statutorily designated to provide a public safety information system and network to support data collection, information sharing and interoperability for the Commonwealth's criminal justice and law enforcement community and to oversee the authorized provision of CORI to the non-criminal justice community.

Direct and unmonitored contact with children: Contact with students when no other employee, for whom the employer has made a suitability determination pursuant to 603 CMR 51.00 of the school or district is present. "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication. The school employer may determine when there is potential for direct and unmonitored contact with children by assessing the circumstances and specific factors including but not limited to, whether the individual will be working in proximity with students, the amount of time the individual will spend on school grounds, and whether the individual will be working independently or with others. An individual shall not be considered to have the potential for direct and unmonitored contact with children if he or she has only the potential for incidental unsupervised contact in commonly used areas of the school grounds.

Employee: An individual working, or applying to work, in a Massachusetts public or private school. Employees shall include any apprentice, intern, or **student teacher** or **individuals in similar positions**.

From MASPA Meeting 3/28/14

1. Differences between CHRI and CORI:

CORI is name-based and by state; CHRI is print-based and national

2. Vendor: Morpho Trust

3. Register: online or by telephone <https://ma.ibtfingerprint.com/> (866) 349-8130

4. Payment: online by credit card or at time of fingerprint capture by check or money order

5. Locations

- a. 30 locations up and running within 60 days
- b. Locations include Framingham, Natick, Milford, Boston, and Worcester.
- c. Each school and district will have a unique code.
- d. Find up-to-date information on locations

at <http://www.identogo.com/FP/massachusetts.aspx>, <http://www.l1enrollment.com/locations/?st=ma>.

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6. Results

Although subjects can list up to 10 districts to receive results, if districts do not have application for the subjects, results could very well be destroyed. Therefore, our licensure candidates, if required to be fingerprinted, should wait until placed.

7. Pre-Practicum

Because pre-practicum students may not necessarily have unmonitored contact with children, they **may not** need to be fingerprinted in each district placed. This is the **district's decision**.

8. Turnaround time: within 48 hours (unless there is need for a manual redaction of previous records or a "no-hit" because of unusable prints)

9. Fees:

\$55 for licensed educators and specialists

\$35 for all others

10. Transferring Reports Between Districts

If a candidate has completed a CHRI for one district and applies to a second district within three years or less, the second district has the right to choose if they will accept a determination from the first district or if they want to run a new CHRI. The only information that may be passed on from one district to another is a one-word determination: "Suitable" or "Unsuitable". See 603 CMR 51.06 for exact documentation required.

From DESE FAQs <http://www.doe.mass.edu/lawsregs/faq-ch459.pdf#search=%22fingerprinting%22>

Q: Who must submit fingerprints under the new law?

Under the new law, all school-related personnel with the **potential for unsupervised contact** with children, including all public and private K-12 school employees (including employees at special education day and residential school programs under Chapter 71B), as well as subcontractors/laborers commissioned by schools to perform work on school grounds, individuals who regularly provide school-related transportation to children, and anyone providing child care or support services licensed by the Department of Early Education and Care will be subject to fingerprint-based state and national background checks. **School volunteers do not need to submit their fingerprints** for the national checks, but they must continue to submit to state CORI checks.

FEES

Q: What is the cost of these national criminal history background checks, and who will pay it?

The fee charged for running the national checks will be 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 will be paid by the individual employee or educator.

Q: Why is there a fee for conducting the national checks?

Unlike state CORI checks, the fingerprint-based national criminal history checks are more complex and require participation by multiple law enforcement agencies. All fingerprints must be submitted to the Federal Bureau of Investigation (FBI) to produce a national criminal history report. The FBI charges a fee to produce those reports. In addition, the Massachusetts Executive Office of Public Safety and Security (EOPSS), the Massachusetts Department of Criminal Justice Information Services, and the Massachusetts State Police must review, prepare, and produce the FBI reports to school districts and licensing agencies in a form that is legally consistent with the Commonwealth's CORI statute. There will be administrative costs associated with that process. The fees will support the FBI fee, as well as state administrative costs. All fees paid for these national checks will be deposited in a state trust fund and will be available only for the support of this system of national criminal history checks.

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Please note that the fees established in the new law are reasonable and in line with the fees other states charge for similar national criminal history checks.

Q: If I am a school employee or early educator, is there a hardship exception to paying the fee?

Yes. The law explicitly states that a school committee, superintendent, or principal, as well as a program licensed or funded by the Department of Early Education and Care, may reimburse applicants all or part of the fee on the grounds of financial hardship.

Regulations <http://www.doe.mass.edu/lawsregs/603cmr51.html?section=all>

51.03: Individuals Subject to a National Criminal History Check for Suitability Determinations.

1. School employers shall review the results of a national criminal history check for all current and prospective school employees in the following categories:
 - a. Any full or part-time employee who may have direct and unmonitored contact with children;
 - b. Any substitute employee who may have direct and unmonitored contact with children;
 - c. Any student teacher, apprentice or intern working at a school who may have direct and unmonitored contact with children; and
 - d. Any individual who regularly provides school related transportation to children.
2. School employers **may review** the results of a national criminal history check for certain individuals who may have **direct and unmonitored contact** with children, including:
 - a. Any volunteer; and
 - b. Any subcontractor or laborer commissioned by the school employer, or employed by the city or town, to perform work on school grounds or with students.
3. In the case of an individual directly hired by the school committee, such as a superintendent of schools, the chair of the school committee shall review the results of the national criminal history check.