



## CSS BACKGROUND CHECK ISSUES BRIEF

### Understanding Criminal History Information

The criminal history information that schools obtain on volunteers and employees as a result of background check requests can be confusing. Differences in the way information databases is handled by the two state agencies which perform such checks are the primary cause of this confusion. It is important that school administrators understand the differences in the Kentucky State Police (KSP) and the Administrative Office of the Courts (AOC) data bases so that they can make informed decisions based on the information they receive.

The following chart summarizes the statutory requirements for background checks for volunteers, certified and classified public school employees.

School Group	Authorizing Statute	Agency Processing Request	FBI Check Required	Total Costs
Volunteers	161.148	AOC	No	\$0
Volunteers	161.148	KSP	No	\$10
Certified	160.380	KSP	Yes	\$34
Classified	160.380	KSP	No	\$10

#### **AOC DATA**

To request a criminal history record check through AOC, the school is required to submit only the name, Social Security number and other identifying information on the person. Since fingerprints are not used, there is no way to determine if the person has assumed a false identity.

The AOC database includes information on all persons charged with a crime anywhere in the state of Kentucky. Thus, anyone who is arrested and taken into custody, cited and released, or issued a summons will be included in this database system. As the case proceeds through the court system, AOC updates its database and records with the final disposition of the case. However, if the court process has not been completed, schools will only receive information about the arrest charge, and will not later be informed if the person is found guilty or not.

The AOC does not charge schools for background checks even though the number of checks increased significantly following passage of the 1998 statute requiring background checks on volunteers. In fiscal year 2000, AOC processed approximately 27,000 checks for Youth Leader requests that included some schools; this number increased to 137,000 in FY 2001. The costs of the volunteer background checks is partially offset by ten dollars from each application fee paid by persons seeking a permit to carry a concealed weapon.

The statute does not require schools to resubmit criminal background requests on volunteers on a periodic basis. Thus, the information the school receives only reflects activity that occurred up to the time the request is submitted; any subsequent arrests and/or convictions of the individual would not be reported to the school unless a new request is submitted.

Staff in AOC is available seven days a week, twenty-four hours a day to update the criminal history information. While there were initial processing delays after the passage of the legislation, background checks are currently processed the day they arrive and schools receive the information within 2 to 3 days. The AOC Record Operation is experimenting with accepting and returning records via e-mail if the applicant so indicates and meets specific requirements.

The way in which schools use the criminal history information to make decisions about volunteers working within schools is at the discretion of local school districts.

### KSP DATA

To process a request for a criminal background check through this agency, schools must submit fingerprinted cards. The advantage of this approach is that it is easier to verify the identity of the person being checked. The agency's database is similar to AOC's in that the information contained reflects only what has occurred within the state of Kentucky. The primary difference between the two agencies is that the information that KSP releases to schools includes only arrests that result in convictions. This means that any arrests that did not result in a finding of guilt are not reported. The reason for the stricter standard is that KSP is governed by state laws restricting the types of information that can be released to the public. This means that the school would not be notified if a potential employee was arrested and the charges were later dismissed. In addition, if a person is cited and released or receives a summons for an alleged crime, the data would not be recorded in the KSP system. Generally, however, citations and summons are allowed only in minor traffic or misdemeanor cases.

KSP charges \$10 for each individual background check it completes. In July of 2001, the agency instituted a new accounting system that requires schools to prepay for all criminal background check. The new system, mandated by the Federal Bureau of Investigation (FBI), has eliminated the need for schools to write individual checks for each background request and has reduced the turnaround time from four weeks to two weeks. The number of checks for classified employees increased from 18,500 in FY 2000 to 22,600 in FY 2001. Likewise, the number of checks requested for certified employees increased from 12,800 in FY 2000 to 15,700 in FY 2001.

The statute governing certified and classified employees is similar to the one governing volunteers in that it does not require schools to update criminal history checks on existing employees on a periodic basis. It strictly prohibits schools from hiring certified or classified employees who have a record of a sex crime or specified violent offense. For all other offenses, the school district has discretion over the use of other criminal offense information in making hiring decisions.

For certified employees, the KSP also processes requests for FBI background checks based on a set of fingerprints. Each FBI check costs \$24 and takes about six to eight weeks. KSP has no control over the time taken to complete a request or the costs charged by that agency.

### SUMMARY

The information that schools receive from the AOC, KSP and the FBI is extremely accurate and differs only in the offenses covered and the status of the criminal case. The data maintained by AOC is more inclusive in that it covers traffic and less serious misdemeanor cases that may not result in an arrest or conviction. The KSP database includes only those offenses that result in an **arrest**--primarily serious traffic and misdemeanor cases and all felonies. The AOC data includes all reported offenses regardless of whether there is ultimately a finding of guilt, whereas KSP can only release data on persons actually convicted of a crime.

While the statutes require schools to submit background checks for certified and classified employees through KSP, they may also want to submit a request to AOC. This would allow them to be informed of any pending charges that have not been fully processed by the courts as well as convictions of minor traffic and misdemeanor offenses that may not included in KSP's data base. However, before any hiring decisions are made based on arrest data only, school officials need to check their local school board policy regarding hiring procedures.

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