



# Oregon

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Deputy Superintendent of Public Instruction

## GOOD GOVERNANCE

### **HB 2058: Accepting Teacher Standards and Practices Commission (TSPC) Fingerprinting Result House Education Committee March 25, 2021**

Chair Alonso Leon, Vice Chairs Neron and Weber, and members of the committee, I am Nicole Peterson, Legislative Coordinator for the Oregon Department of Education (ODE). Thank you for the opportunity to provide testimony in support of House Bill 2058. The following information provides an overview of HB 2058 and -1 amendment.

#### **Current Law**

Per ORS 326.603, ODE conducts fingerprint-based background checks on newly hired public school employees working in positions that do not require a license, registration or certification from the Teachers Standards & Practices Commission (TSPC). Currently, a person who is or was licensed by the TSPC and went through the Commission's fingerprinting process would be required to undergo a second fingerprint-based background check by ODE if they apply for a position with a school that does not require a TSPC license.

#### **House Bill 2058**

ODE prides itself on providing responsive customer service to all individuals and entities it interacts with. HB 2058 helps us reach this aim by allowing ODE to accept the results of the TSPC's criminal records checks in certain situations. It provides statutory clarity on if ODE can accept fingerprinting results, which are valid for the length of the license from TSPC, and for three years after the license expires. Individuals who have previously submitted to a TSPC fingerprint-based background check within the past three years or remained continuously licensed or registered with TSPC would then be exempt from submitting another check done by ODE.

## **-1 Amendment**

The proposed amendment would allow ODE to accept TSPC fingerprint-based background checks only during the previous school year instead of three years as proposed by the original language of the bill. This does create a fiscal as current practice at ODE is following the TSPC timeline. ODE would need additional staff to support the increase in fingerprinting background checks.

The original proposed language would allow ODE to provide a better customer experience at no additional cost to the state with state bodies coordinating with each other rather than requiring an additional check. In being allowed to accept TSPC's fingerprinting results, the K-12 sector would become more aligned in our practices.

We expect this proposal to have a positive impact for both school districts and individuals in time and cost savings, removing another potential barrier to employment for job seekers.

Our goal is not to compromise student safety. HB 2058 is a requested statutory change codifying current practice. We do want to partner in larger discussions about how we keep our students safe.

Thank you for your time, and we welcome any questions you may have.

Respectfully submitted,

Nicole Peterson

### **Question Received by House Education Committee**

#### **Q: What does it cost to do this?**

A: Shonna Bumgarner ODE - \$59/person per fingerprinting process + \$12.50 charge from vendor (Savings of both charges for individual's 2nd fingerprinting process)

**ODE Response:** Currently, ODE has been accepting fingerprinting results from TSPC following their guidelines for fingerprinting validity in the absence of statutory guidance for ODE. Since we are doing this in practice, it has allowed us to use current staff. Codifying current practice and aligning to TSPC fingerprinting cycle under statute 326.603 would clarify our role and would not cost additional funds.

**Q: How much do we save?**

**ODE Response:** The cost savings is \$81,655 for the 2021-2023 and \$88,558 for the 2023-2025 biennium, which is what the -1's would cost the state if the legislature decides to amend HB 2058 to direct ODE to conduct fingerprinting in the two year window gap between the TSPC 3 year window and the -1 directed 1 year window.

The current base bill would have cost savings to the individuals as well as it costs \$71.50 in total to go through the fingerprinting process via ODE.

**Q: Within banking you have to undergo background check any time you move from one bank to another – How does this compare with other sector background checks?**

**ODE Response:** ODE is not in a position to compare other sectors or agencies, given each sector and/or agency has its own federal and state laws to follow and separate systems used in background checks. The K-12 sector is handled by both TSPC and ODE; TSPC is responsible for fingerprinting teachers and licensed staff while ODE is responsible for fingerprinting classified employees. This proposal seeks to give ODE statutory direction to align the K-12 sector in accepting TSPC's standards for fingerprinting.

**Q: Can someone who has done something egregious slip through the cracks?**

**ODE Response:** We do not believe this will create any new issues in terms of bad actors slipping through the cracks. As mentioned, this proposal codifies current practice at ODE and lines up with the direction given to TSPC. Under the law as it currently stands, it is really not clear whether ODE must conduct a fingerprint based background check on someone who has already been cleared by TSPC.

As TSPC's current standard is fingerprints being valid for the length of their license, and for three years after the license expires, our intent with this bill was to align with TSPC practices. Districts would still be able to do their own type of background check that would not involve sending new fingerprints to ODE for processing.

We would be happy to participate in a more extensive conversation about current fingerprinting practices and determining the way to move forward in conjunction with TSPC and the Legislature.

**Q: If they don't have to resubmit, is there any gap in information that happened within that 3 years that a school or district wouldn't be privy to?.**

**ODE Response:** We do not believe this proposal would create a new gap. Currently for TSPC, fingerprints are valid for the length of an individual's TSPC license, and for three years after the TSPC license expires. This proposal just aligns our practices with how long TSPC fingerprints are valid for. Our proposal would not stop districts from doing their own type of background check if they were inclined to. They just wouldn't be required to be fingerprinted through our Department if they were previously fingerprinted through TSPC within the past 3 years or remained continuously licensed or registered with TSPC.

Classified employees that are fingerprinted and cleared through our Unit are not a subject individual to ever be fingerprinted again, unless the person lived outside this state during the interval between the two periods of time working in the district or private school based on current statute and rule. But, districts may do their own type of background check on the employee.

As mentioned, we are happy to have a broader conversation about fingerprinting practices in the State of Oregon for the education sector, including TSPC in that conversation as they are responsible for fingerprinting teachers and licensed staff while we are responsible for fingerprinting classified employees.

**Q: How many people per year who are licensed by TSPC are also required to be background-checked by ODE because they are changing to a position covered by ORS 326.603?**

**ODE Response:** Currently, based on statute, they are not required to be done again. Current statute under ORS 326.603 says, "Notwithstanding subsection (1) of this section, the Department of Education may not require fingerprints of a person described in subsection (1) of this section if the person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school".

Since employees that are fingerprinted for TSPC work for school districts and private schools, they would fall under that of not having to be fingerprinted again, unless they lived outside of

the statute during the interval between the two periods of time working in the district or private school.

The purpose of this proposal was to be more specific to align with TSPC's timeframe for when they have employees go through the fingerprinting process again for licensed staff. As licensed individuals haven't been required to go through the fingerprinting process again for us in a classified position if they cleared through TSPC per the statute, we do not have the number of people that are licensed through TSPC that would be required to be fingerprinted through ODE.