TENNESSEE DEPARTMENT OF EDUCATION
Office of Federal Programs

Requirements for Criminal Fingerprint Background Checks for Supplemental Educational Services (SES) Provider Personnel

The purpose of this document is to clarify requirements of supplemental educational services (SES) providers to procure criminal background checks pursuant to Tenn. Code Ann. §49-5-413. This statute requires the use of a fingerprint sample and submission to a criminal history records check to be conducted by the Tennessee Bureau of Investigation (TBI). All approved SES providers in Tennessee have signed Assurances, which include the following:

5. *Individuals of the organization having contact with or who are in proximity to children related to the provision of services will have undergone a criminal background check prior to their hire, pursuant to Tenn. Code Ann. §49-5-413.*

Pursuant to TBI guidance, SES providers shall meet this requirement by working with the local education agency (LEA). Procuring criminal background checks, including provisions for payment for these checks, are to be included in agreements between SES providers and the LEA, effective immediately. If a provider works with multiple LEAs, this is required for each school district in which services are provided. These checks must be completed for prospective employees prior to their hire and prior to their contact with children.

Working in cooperation with the LEA, the SES provider shall provide to the school district the information necessary to obtain criminal fingerprint background checks for tutors, provider-paid site coordinators, and other personnel who come into proximity with school children in the provision of SES services. Please keep in mind that this requirement includes teachers in an LEA who may be hired as an SES tutor. The LEA may use the same procedure for obtaining criminal history records checks that it uses for LEA employees.

The TBI has advised that, pursuant to Federal law, the LEA cannot give the records check information to the SES provider or to the prospective employee of the provider. Therefore, when the LEA receives the results of the records check, the only information that may be shared with the SES provider is whether or not the results of the criminal history records check contain or does not contain information that would preclude this individual from working with students.

**Online Providers’ Procedure for Obtaining a Fingerprint Background Check**

Online providers must obtain background checks on tutors through the local school system in Tennessee where the tutoring services are to be provided. The background checks must be completed before the employee begins tutoring the students. The provider should request a sufficient number of fingerprint cards and background check applications from the LEA. The LEA will mail the fingerprint cards and applications to the online provider with directions for processing the cards. The provider will distribute a card and application to staff who will be working with students and direct them to take their card and a photo-identification to the local
law enforcement agency to get fingerprints put on the card. The fingerprint card and completed application are returned to the provider who will mail the fingerprint card, application, and fee to the school system in Tennessee. The local school system will process the card and application through the Tennessee Bureau of Investigation. TBI will inform the LEA whether or not the results of the criminal history records check contain or does not contain information that would preclude the individual from working with students. The LEA forwards a statement to the online provider, indicating whether the prospective tutor has an acceptable or unacceptable background check.

**Frequently Asked Questions**

A representative of Tennessee Bureau of Investigation provided additional information in response to the following provider questions:

Q. Can the SES providers or applicants contact TBI directly to get a fingerprint background check?
A. Background checks are processed by Cogent Systems, a vendor for TBI, and information is required from the school system (an ORI number) where SES tutoring will be provided in order for the provider to initiate the application process. Therefore, the provider is directed to contact the SES spokesperson at the school system to inquire about the procedure to follow. Providers may go to the Cogent Systems website at [www.cogentsystems.com](http://www.cogentsystems.com) and the TBI website at [www.tbibackgrounds.com](http://www.tbibackgrounds.com) to find more information.

Q. Can anything be done to speed up the background checks process?
A. To avoid processing delays, providers can advise their applicants to know what personal information will be asked. A copy of the Tennessee Applicant Processing Services (TAPS) application is located on the Cogent Systems website ([www.cogentsystems.com](http://www.cogentsystems.com)) and should be shared with the applicant prior to registration. The time required to obtain an NCIC printout (a rap sheet) or an indicator letter can be one week or less or as much as four weeks. If the NCIC printout or indicator letter is not available after four weeks, a follow-up call is needed.

Q. What is the cost for a fingerprint background check?
A. The standard processing fee for a TBI and FBI search is $56. When an expedited processing fee is added, the total fee is $59. An applicant Processing Fee Schedule can be accessed on the Cogent Systems website.

Q. When a tutor is hired on the same day by the Department of Children’s Services and by a public school system in Tennessee and both organizations require a fingerprint background check, is it necessary to get two separate fingerprint background checks and pay $56 twice?
A. Yes. Agencies do not have the same disqualifiers that are used to determine whether or not a background check is acceptable. For example, if one agency has a DUI disqualifier and the other agency does not, an individual with a DUI could have an unacceptable background check for one agency but not for the other.

Another reason two separate background checks are required is that dissemination of the NCIC printouts (rap sheets) to a third party is not permitted. One agency must not share a rap sheet with another agency. Each agency must conduct its own fingerprint background check.
Q. Fingerprinting will not be done until payment is made. When the SES provider’s policy is to deduct the cost of the background check from the tutor’s first check, who pays the fee?
A. The agency (local school system) determines who pays for the fingerprint services. If the applicant is not required to pre-pay the fee, the applicant must check the box for “Agency” on the TAPS Applicant Information Form in the “Payment To Be Made By” section.

Q. What are a provider’s options when payment for the background check is to be paid by the applicant from the applicant’s first check and the applicant decides not to accept the position or is not eligible to accept the tutoring position after the background check has been completed?
A. The applicant may submit payment via credit or debit card over the phone or online to pre-pay or make payment at the time of service with a Money Order or Cashiers check made payable to Cogent Systems.

Q. When should fingerprint background checks be obtained for SES administrators/tutors and other personnel who come in close proximity with SES students?
A. Criminal background checks must be completed for prospective employees prior to their contact with children. The local school system may require annual background checks.

Q. What qualifiers are used to determine whether a person has an acceptable or unacceptable background check?
A. TBI’s data sources include a TBI and FBI fingerprint search, TBI Criminal History, Tennessee Sexual Offender Registry, and Tennessee Orders of Protection database.

Q. How does Public Chapter 587 relate to the background check requirements for providers of supplemental educational services?
A. The new legislation that became effective September 1, 2007, permits contractors who provide services to school systems to obtain an ORI number from Tennessee Bureau of Investigation (TBI) for requesting criminal history background checks for individuals who will be working in proximity of children. The disqualifier in the background check is a conviction of a sexual offense or a record as a violent sexual offender.

The background check requirements for providers of SES are more rigorous than the requirements of PC 587 because the SES background checks include database searches of TBI and FBI fingerprint records, TBI Criminal History, Tennessee Sexual Offender Registry, and Tennessee Orders of Protection. Additionally, the SES providers are required to process background checks through the local school system, using the same procedures the system uses for its employees.

Providers of supplemental educational services work directly with children and for that reason, the Department of Education will continue to require the more rigorous background searches for SES providers and their employees, processed through the local school system in which the provider offers tutoring services.