Fingerprint Clearance Cards

Q&A

Arizona Education Association
This booklet is a general guide for AEA members and is not intended to provide complete information or legal advice on specific problems. Changes in laws may modify the information provided.
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All certificated school employees are required to obtain “fingerprint clearance cards.” Anyone who participates in a teacher preparation program that is approved by the State Board of Education or anyone who is contracted by the State or a school district to provide tutoring services also must obtain a fingerprint clearance card. Some frequently asked questions about these requirements follow.

The Clearance Card Requirement

What is a fingerprint clearance card?
The fingerprinting division of the Department of Public Safety (DPS) issues fingerprint clearance cards. The division compares the state and federal criminal history records of an applicant for a clearance card to a list of offenses in A.R.S. § 41-1758.03. (Find Arizona statutes at www.azleg.gov.) If an applicant’s record shows none of the listed criminal offenses, the division issues a fingerprint clearance card. The DPS will send a letter if an applicant is denied a clearance card.

Who needs a fingerprint clearance card?
Individuals who apply for initial certification from the Department of Education must have a valid fingerprint clearance card. Teachers who apply for renewal of any certificate or who apply for additional certificates must meet one of the following requirements:

1. Have a valid fingerprint clearance card.
2. Provide proof of the submission of an application for a clearance card.
Applicants who have been denied a fingerprint clearance card also must provide proof that they qualify for a good cause exception hearing, which is described below. A.R.S. § 15-534(A).

**Do noncertificated education support professionals need fingerprint clearance cards?**

No, but they are subject to other fingerprinting requirements. Noncertificated education support professionals who are initially hired by a school district after January 1, 1990 must be fingerprinted as a condition of employment. They also must certify on notarized forms whether they are awaiting trial or whether they have ever been convicted of or admitted to certain criminal offenses. See A.R.S. § 15-512.

**What happens if someone’s criminal history record shows a listed offense?**

Depending on the offense, the person can apply for a “good cause exception.” Most teachers with a minor criminal offense from many years ago will receive a clearance card or a good cause exception.

The offenses listed in subsection B of A.R.S. § 41-1758.03 absolutely preclude a person from receiving a fingerprint clearance card. These offenses are “nonappealable.” For example, a person who is awaiting trial on or who has been convicted of committing sexual conduct with a minor may not receive a fingerprint clearance card and may not request a good cause exception. A list of nonappealable offenses is in the Appendix.

Subsection C lists the offenses for which a person may request a good cause exception. These offenses are “appealable.” For example, a person who is awaiting trial on or who has been convicted of theft may petition the Board of Fingerprinting for a good cause exception. A list of appealable offenses is in the Appendix.

A.R.S. § 41-1758.03 lists many diverse offenses, and someone
with a criminal history record should carefully review the statute to determine whether a good cause exception is possible. Note that the list of offenses may change with legislative action. The current list of offenses is available online at www.azleg.gov. Click on “State Statutes” on the Arizona State Legislature home page and scroll down to Title 41.

**What happens with a DUI offense?**

Driving under the influence (DUI) is not a precluding offense. Someone with a DUI that occurred within five years from the date of the application for a fingerprint clearance card will be restricted, however, from driving as part of the individual’s employment. For example, a coach could not drive members of the team in the school district van. See A.R.S. § 41-1758.03(D).

**Getting and Keeping the Clearance Card**

**When should a teacher apply for a clearance card?**

Because applicants for initial certification must have a fingerprint clearance card, these individuals should apply prior to applying for certification. For individuals with no state or federal criminal record, processing time currently is approximately three to five weeks after DPS receives a complete fingerprint packet.

Anyone who has committed an appealable offense also will have to apply for a good cause exception, which takes additional time. Applying early allows sufficient time to complete the criminal history review and the good cause exception procedure if needed. Generally, the expedited review occurs about two to three weeks from when the Board of Fingerprinting receives a complete good cause application packet. If a hearing is required, the process may take several additional months.
Teachers who apply for renewal of certification or who apply for additional certificates only have to show proof that they have applied for a clearance card. If teachers who are currently certified have committed one of the listed criminal offenses, they also must show proof that they qualify for a good cause exception hearing. These teachers remain certified during that process.

**What is the cost of applying for a clearance card?**

The current application fee is $51.00, which must be paid by money order, cashier’s check, or business check. Effective January 1, 2009, the cost is $69.00. Personal checks and cash are not accepted.

**How is the application form obtained?**

An individual seeking a fingerprint clearance card may call DPS at 602-223-2279 for an application form. A request may be faxed to DPS at 602-223-2947.

**Where can someone be fingerprinted?**

DES does not do fingerprinting. Some school districts arrange for fingerprint services, and some county sheriff’s offices and police departments do fingerprinting. Agencies may charge a fee for fingerprinting and may have additional conditions. For example, some municipal police departments provide fingerprinting services only to residents of the particular municipality. Teachers should call the individual office or agency and check on the dates and times at which fingerprinting is done, the fee, and whether other conditions apply. Private fingerprint services are listed in the “Yellow Pages” of the telephone directory.

**What are “identity verified fingerprints”?**

Beginning on January 1, 2008, an applicant for a new teaching certificate or an applicant for renewal of a teaching certificate must submit identity verified fingerprints. See A.R.S. § 15-106. The entity doing the fingerprinting will check the completed
application form against photographic identification and demographic information and then send the application form and fingerprints with the required fee paid by money order or cashier’s check directly to DPS.

DPS provides for digital storage and retrieval of identity verified fingerprints. An individual who has a set of identity verified fingerprints on file with DPS is not required to submit a new set of fingerprints to renew a fingerprint clearance card.

**How long is a clearance card effective?**

Unless suspended or revoked, a clearance card remains effective for six years. See A.R.S. § 41-1758.02. Teachers must maintain a valid fingerprint clearance card during the valid period of their certificates. A.R.S. § 15-534(B).

**What happens if a teacher whose certificate previously was approved by the state board of education is denied a clearance card?**

The teacher may be eligible for “prior agency clearance.” If the State Board of Education previously reviewed a teacher’s criminal history records and voted to grant certification prior to August 16, 1999, and if there are no new precluding offenses after the State Board’s vote, the teacher will receive a fingerprint clearance card without going through the good cause exception process. See A.R.S. § 41-1758.03(G). If DPS denies the clearance card, contact the Investigative Unit at the Department of Education, 1535 West Jefferson, Phoenix, Arizona 85007.

**If a teacher is certified in another state, is a fingerprint clearance card required?**

Yes, but the teacher may be eligible for a one-year reciprocal teaching certificate. Requirements for this certificate include valid certification from a state with substantially similar criminal history or teacher fingerprinting requirements and proof of apply-
ing for a fingerprint clearance card. A.R.S. § 15-203(A)(27). Currently, 19 states have similar criminal history or fingerprinting requirements.

What happens if a teacher is arrested after receiving a clearance card?

The fingerprinting division of DPS shall suspend the clearance card of a person who is arrested for any offense listed in A.R.S. § 41-1758.03(B) or (C). See A.R.S. § 41-1758.04. In addition, the Department of Education and the individual’s school district are notified if a clearance card is suspended. After an investigation, the Department of Education will determine whether to issue a complaint seeking disciplinary action against the teacher’s certificate. Some school districts allow the teacher to continue working when the clearance card is suspended and a request for a good cause exception is pending. Other districts place the teacher on paid or unpaid leave, and some districts begin dismissal proceedings.

A certificated school district employee or an applicant for employment with a school district who is arrested for any non-appealable offense listed in A.R.S. § 41-1758.03(B) must immediately report the arrest to the supervisor or potential employer. Failure to disclose the arrest is unprofessional conduct, warranting dismissal or exclusion from employment. See A.R.S. § 15-550(C).

The fingerprinting division shall revoke the clearance card of a person who is convicted of a nonappealable offense listed in A.R.S. § 41-1758.03(B). A certificated school district employee who is convicted of any nonappealable offense must surrender any certificates to the Department of Education, notify the employer, notify DPS, and surrender the fingerprint clearance card. See A.R.S. § 15-550(D).
**The Good Cause Exception**

**Who determines a good cause exception?**

The Board of Fingerprinting determines whether a person is entitled to a good cause exception. A.R.S. § 41-619.53. The Board consists of representatives from the Arizona Supreme Court, Department of Economic Security, Department of Education, Department of Health Services, and Department of Juvenile Corrections. A.R.S. § 41-619.52.

**How does someone apply for a good cause exception?**

The first step is to send to the Board of Fingerprinting a copy of all pages of the letter from DPS denying the fingerprint clearance card. The DPS letter should have spaces for a date and signature confirming the applicant’s request for a good cause exception. The Board must receive the copy of the DPS letter within 30 days of the date of the letter.

After the Board of Fingerprinting receives the request for a good cause exception, it will send an application packet. The Board requires a signed, notarized application form and submission of certain documents to obtain a good cause exception. These documents include:

1. Two letters of reference on forms provided by the Board, one of which must be from a current or former employer or someone who has known the applicant for at least three years.

2. A detailed statement explaining the circumstances of each arrest in the criminal history record even if the arrest is not listed on the DPS letter.

3. Evidence of compliance with all court-imposed requirements or sentencing conditions, such as payment of
fines, completion of counseling programs, and completion of probation.

4. Photocopies of court records (or documentation from the court that records are no longer available).

If the DPS letter states that a fingerprint clearance card was denied because there is no information about the disposition of a criminal charge, the applicant must provide photocopies of court documents showing disposition of the charge or documentation showing that the records are no longer available. If the offense occurred five years ago or less, the applicant must provide photocopies of the entire police report and court documents showing disposition of the charge.

**What factors are considered for a good cause exception?**

Before granting or recommending a good cause exception, the Board of Fingerprinting or hearing officer considers the following factors:

1. The extent of the person’s criminal record.
2. The length of time since the offense was committed.
3. The nature of the offense.
4. Any applicable mitigating circumstances.
5. The degree to which the person participated in the offense.
6. The extent of the person’s rehabilitation, including whether the person paid restitution or other compensation, evidence of efforts to change criminal behavior such as completion of a drug treatment program, and personal references.

See A.R.S. § 41-619.55(E).

**Is there a hearing to determine a good cause exception?**

Perhaps. Sometimes a hearing is not necessary because the Board of Fingerprinting has sufficient information to grant a good cause exception with “expedited review.” Under this
review, the Board examines the documents submitted without the applicant being present. For applications received on or after September 19, 2007, expedited review must occur within 20 days after the Board receives a complete application and the criminal history from DPS. Applicants whose good cause exceptions are approved under expedited review generally have few offenses, old offenses, or very minor offenses.

If an applicant is denied a good cause exception under expedited review, Board staff will send a letter explaining the need to appear at a hearing. All hearings are held in Phoenix, Arizona, and the Board will send a formal notice with the date, time, and precise location of the hearing at least 20 days prior to the hearing. The Board may appoint a hearing officer who will recommend whether an applicant should be granted or denied a good cause exception. A.R.S. § 41-619.55. An applicant may have a representative at the hearing. A.R.S. § 41-619.55(D).

If the Board of Fingerprinting approves the good cause exception, the Board sends a letter to DPS requesting that DPS issue the fingerprint clearance card. After receiving the Board’s letter, DPS usually sends the card within seven to ten working days.

**Does AEA provide legal assistance to request a good cause exception?**

AEA usually provides legal services to AEA members who have been denied a fingerprint clearance card or whose card has been suspended. Promptly responding to a denial or suspension is important, so contact your AEA Regional Office for a legal referral as soon as possible.
Criminal History Records

Are criminal history records confidential?

All criminal history record information maintained by the Board of Fingerprinting is confidential except that information may be disclosed in a good cause exception hearing. Persons who attend a good cause exception hearing are prohibited from discussing or sharing any criminal history record information outside the hearing. Criminal history record information and good cause exception decisions and hearings are exempt from Arizona's public records laws. A.R.S. § 41-619.54.

What can be done if the criminal history record is not correct?

Individuals who question the accuracy of their criminal history records should contact DPS or the FBI for a review of the records. For charges that occurred in Arizona, request a record review instruction packet from DPS by calling the criminal history records section at 602-223-2222. The packet includes a fingerprint card for another full set of rolled fingerprints. After submission of the completed card, a copy of any existing record will be mailed. For charges that occurred outside of Arizona, call the FBI at 304-625-5590.

An Important Note

Please be aware that the forms and procedures for the fingerprint clearance card requirements may change. Also, the list of criminal offenses may be modified by legislative action. Teachers should check with the fingerprinting division of the Department of Public Safety (602-223-2279), the Board of Fingerprinting (602-265-0135), or AEA staff to be sure they have the most current information and forms.
Practical Tips

1. If you are applying for initial certification, apply early for a fingerprint clearance card, particularly if there is a criminal incident in your past.

2. Begin early to get photocopies of all documents related to a prior criminal matter, including court records, police reports, termination of probation orders, receipts for payment of fines, and proof of completion of community service.

3. If your offense or charge occurred long ago, the court may not have your records. Request a letter or documentation from the court stating that it searched its records and could not find any record for your case.

4. Check with the court in the jurisdiction where the prior criminal matter occurred to see if the offense can be expunged or set aside. Send a copy of the court order to the Board of Fingerprinting.

5. The written statement submitted to the Board of Fingerprinting for a good cause exception should explain in detail every criminal charge on your record. Include any mitigating circumstances and any steps you have taken to change your behavior.

6. Submit positive information such as recent good evaluations, awards, and achievements in addition to the required letters of reference.

7. Submit all information requested at one time.

8. Keep photocopies of all application forms and documents submitted.

9. Contact the Board of Fingerprinting staff immediately if your address changes during the good cause exception process.

10. Check the Board of Fingerprinting Web site www.azbof.gov for helpful, current information about the good cause exception process.
Appendix

Nonappealable Offenses – No Fingerprint Clearance Card (as of November 2008)

1. Sexual abuse of a vulnerable adult
2. Incest
3. First or second degree murder
4. Sexual assault
5. Sexual exploitation of a minor
6. Sexual exploitation of a vulnerable adult
7. Commercial sexual exploitation of a minor
8. Commercial sexual exploitation of a vulnerable adult
9. Child prostitution as prescribed in section 13-3212
10. Child abuse
11. Abuse of a vulnerable adult
12. Sexual conduct with a minor
13. Molestation of a child
14. Molestation of a vulnerable adult
15. A dangerous crime against children as defined in section 13-705
16. Exploitation of minors involving drug offenses
17. Taking a child for the purposes of prostitution as prescribed in section 13-3206
18. Neglect or abuse of a vulnerable adult
19. Sex trafficking
20. Sexual abuse
21. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502
22. Furnishing harmful items to minors as prescribed in section 13-3506
23. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01
24. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512
25. Luring a minor for sexual exploitation
26. Enticement of persons for purposes of prostitution
27. Procurement by false pretenses of person for purposes of prostitution
28. Procuring or placing persons in a house of prostitution
29. Receiving earnings of a prostitute
30. Causing one’s spouse to become a prostitute
31. Detention of persons in a house of prostitution for debt
32. Keeping or residing in a house of prostitution or employment in prostitution
33. Pandering
34. Transporting persons for the purpose of prostitution, polygamy and concubinage
35. Portraying adult as a minor as prescribed in section 13-3555
36. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558

Appealable Offenses – Fingerprint Clearance Card Possible with Good Cause Exception (as of November 2008)

1. Manslaughter
2. Endangerment
3. Threatening or intimidating
4. Assault
5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs
6. Assault by vicious animals
7. Drive by shooting
8. Assaults on officers or fire fighters
9. Discharging a firearm at a structure
10. Indecent exposure
11. Public sexual indecency
12. Aggravated criminal damage
13. Theft
14. Theft by extortion
15. Shoplifting
16. Forgery
17. Criminal possession of a forgery device
18. Obtaining a signature by deception
19. Criminal impersonation
20. Theft of a credit card or obtaining a credit card by fraudulent means
21. Receipt of anything of value obtained by fraudulent use of a credit card
22. Forgery of a credit card
23. Fraudulent use of a credit card
24. Possession of any machinery, plate or other contrivance or incomplete credit card
25. False statement as to financial condition or identity to obtain a credit card
26. Fraud by persons authorized to provide goods or services
27. Credit card transaction record theft
28. Misconduct involving weapons
29. Misconduct involving explosives
30. Depositing explosives
31. Misconduct involving simulated explosive devices
32. Concealed weapon violation
33. Possession and sale of peyote
34. Possession and sale of a vapor-releasing substance containing a toxic substance
35. Sale of precursor chemicals
36. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs
37. Manufacture or distribution of an imitation controlled substance
38. Manufacture or distribution of an imitation prescription-only drug
39. Manufacture or distribution of an imitation over-the-counter drug
40. Possession or possession with intent to use an imitation controlled substance
41. Possession or possession with intent to use an imitation prescription-only drug
42. Possession or possession with intent to use an imitation over-the-counter drug
43. Manufacture of certain substances and drugs by certain means

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44. Adding poison or other harmful substance to food, drink or medicine
45. A criminal offense involving criminal trespass and burglary under title 13, chapter 15
46. A criminal offense under title 13, chapter 23
47. Child neglect
48. Misdemeanor offenses involving contributing to the delinquency of a minor
49. Offenses involving domestic violence
50. Arson
51. Kidnapping
52. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs
53. Robbery
54. Aggravated assault
55. Felony offenses involving contributing to the delinquency of a minor
56. Negligent homicide
57. Criminal damage
58. Misappropriation of charter school monies as prescribed in section 13-1818
59. Taking identity of another person or entity
60. Aggravated taking identity of another person or entity
61. Trafficking in the identity of another person or entity
62. Cruelty to animals
63. Prostitution
64. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513
65. Welfare fraud