

**Instructions to School District Contractors  
Regarding Criminal History Background Searches  
Under Senate Bill 9**

Senate Bill 9 directs school district contractors (i.e., Company) to obtain state and national criminal history background searches on their employees who will have direct contact with students, and to receive those results through the DPS criminal history clearinghouse (Fingerprint-based Applicant Clearinghouse of Texas – FACT). In order for contractors to receive the information through FACT, they must first establish an account with the DPS for FACT clearinghouse access. The Company owner must sign a user agreement with the DPS. To obtain the user agreement and more information, Company must contact:

Access and Dissemination Bureau  
Texas Department of Public Safety  
Crime Records Service  
P. O. Box 149322  
Austin, Texas 78714-9322

Email: [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us)  
Phone: (512) 424-2365

For fastest service, please email or call. State in the message that Company is a school district contractor and needs to have an account established for DPS FACT clearinghouse access. Please include:

Company Name  
Company Address  
Company Phone  
Name of Company point of contact  
Phone of Company point of contact  
Company email to be used for notification of FACT records and messages

The information in the DPS FACT Clearinghouse is confidential, and access must be restricted to the least number of persons needed to review the records. The account must include at least one designated supervisor to make necessary changes and to monitor the site's security and the access to the criminal history data retrieved. Additional users must be limited to those who need to request, retrieve, or evaluate data regarding the individual applicants.

**PLEASE NOTE:** After the Company signs the DPS User Agreement for FACT, DPS will provide the Company with a revised ***FAST Fingerprint Pass*** that Company will have to provide to its employees and applicants. Company's employees and applicants will use that ***FAST Fingerprint Pass*** when scheduling their FAST fingerprinting.

## Contractor Criminal Background Certification

**Introduction:** Texas Education Code Chapter 22 requires service contractors to obtain criminal history record information regarding covered employees and to certify that fact to the District. Covered employees with disqualifying convictions are prohibited from serving at a school district.

**Definitions:**

*Covered employees:* All employees of a contractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

*Disqualifying conviction:* One of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state; or (d) the conviction of a felony or misdemeanor that would disqualify a person from obtaining certification as an educator under Texas Education Code 21.060.

Note: For covered persons hired on or after January 1, 2008, fingerprinting and photographing of the covered person is required. A covered person is considered to have been employed by a service contractor as of the date the covered person first provided services for compensation.

On behalf of \_\_\_\_\_ (“Contractor”), I certify that  
[check one]:

None of Contractor’s employees are *covered employees*, as defined above.

Or

Some or all of Contractor’s employees are *covered employees*. If this box is selected, I further certify that:

(1) Contractor has obtained all required criminal history record information, through the Texas Department of Public Safety, regarding its covered employees. None of the covered employees has a disqualifying conviction. Contractor has taken reasonable steps to ensure that its employees who are not covered employees do not have continuing duties related to the contract services or direct contact with students.

(2) If Contractor receives information that a covered employee has a disqualifying conviction, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within three (3) business days.

(3) Upon request, Contractor will make available for the District’s inspection the criminal history record information of any covered employee. If the District objects to the assignment of a covered employee on the basis of the covered employee’s criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance by Contractor with this certification may be grounds for contract termination.

**Company Name:** \_\_\_\_\_ **/Submitter’s Name/Title:** \_\_\_\_\_

**Email Address: (PLEASE TYPE EMAIL ADDRESS)** \_\_\_\_\_

**Submitter’s Signature:** \_\_\_\_\_ **Telephone No.** \_\_\_\_\_ **/800 # (if available)** \_\_\_\_\_

**Fax No.** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **City, State and Zip Code:** \_\_\_\_\_

This form is required to be completed and signed however, only the successful Proposers will be required to comply with requirement set forth in Act of May 28, 2007, 80<sup>th</sup> Leg., R.S., S.B. 9, § 30. All related costs including background checks/fingerprinting shall be at the contractor’s expense.  
Revised February 1, 2011

*This sheet must be completed, signed, and returned with Prime Contractor’s submittal*

**Subcontractor Form**

Undersigned shall employ, subject to the Owner's approval, the following subcontractor for the Request for Proposal. **One (1) form must be provided for each and every subcontractor employed.** The prime Proposer shall bear the sole responsibility for the successful completion of work performed by the below listed third party service provider(s).

Service provided by Subcontractor:	
Name of Subcontractor:	
Address:	
City/State/Zip:	
Telephone:	
Fax Number:	
E-Mail Address:	
Point of Contact:	
Business Days/Hours:	
No. Years in Business Under This Name:	
No. Years at Location Listed:	
No. Personnel Employed:	

Subcontractor Name: \_\_\_\_\_ /Submitter's Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_ City, State and Zip Code: \_\_\_\_\_

Email Address: \_\_\_\_\_

Submitter's Signature: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_ 800 # (if available) \_\_\_\_\_

Date: \_\_\_\_\_

**Note: Due to provisions made to Contracted Services Criminal History by HB 2730, effective September 1, 2009, all subcontractors must certify to the District, that the subcontractor complied and adheres to the Criminal History check requirements.**

**All subcontractors identified above, must complete the "Subcontractor Criminal Background Certification" form.**

*This sheet must be completed, signed, and returned with Prime Contractor's submittal*

Revised February 1, 2011

### Subcontractor Criminal Background Certification

**Introduction:** Texas Education Code Chapter 22 requires service subcontractors to obtain criminal history record information regarding covered employees and to certify that fact to the District. Covered employees with disqualifying convictions are prohibited from serving at a school district.

**Definitions:**

*Covered employees:* All employees of a subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

*Disqualifying conviction:* One of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; (c) an equivalent offense under federal law or the laws of another state; or (d) the conviction of a felony or misdemeanor that would disqualify a person from obtaining certification as an educator under Texas Education Code 21.060. This same standard applies to employees of subcontractors.

Note: For covered persons hired on or after January 1, 2008, fingerprinting and photographing of the covered person is required. A covered person is considered to have been employed by a service contractor as of the date the covered person first provided services for compensation

On behalf of \_\_\_\_\_ (“Subcontractor”), I certify that  
[check one]:

None of subcontractor’s employees are *covered employees*, as defined above.

Or

Some or all of subcontractor’s employees are *covered employees*. If this box is selected, I further certify that:

(1) Subcontractor has obtained all required criminal history record information, through the Texas Department of Public Safety, regarding its covered employees. None of the covered employees has a disqualifying conviction. Subcontractor has taken reasonable steps to ensure that its employees who are not covered employees do not have continuing duties related to the contract services or direct contact with students.

(2) If Subcontractor receives information that a covered employee has a disqualifying conviction, subcontractor will immediately remove the covered employee from contract duties and notify the District in writing within three (3) business days.

(3) Upon request, Subcontractor will make available for the District’s inspection the criminal history record information of any covered employee. If the District objects to the assignment of a covered employee on the basis of the covered employee’s criminal history record information, Subcontractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance by Subcontractor with this certification may be grounds for contract termination.

**Subcontractor Name:** \_\_\_\_\_/Submitter’s Name/Title: \_\_\_\_\_

**Email Address:** (PLEASE TYPE EMAIL ADDRESS) \_\_\_\_\_

**Submitter’s Signature:** \_\_\_\_\_ **Telephone No.** \_\_\_\_\_ **/800 # (if available)** \_\_\_\_\_

**Fax No.** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **City, State and Zip Code:** \_\_\_\_\_

This form is required to be completed and signed however, only the successful Proposers will be required to comply with requirement set forth in Act of May 28, 2007, 80<sup>th</sup> Leg., R.S., S.B. 9, § 30. All related costs including background checks/fingerprinting shall be at the sub-contractor’s expense.  
Revised February 1, 2011

*This sheet must be completed, signed, and returned with Prime Contractor’s submittal*

## **Certification of Criminal History Background Checks for Contractors Questions and Answers**

### **1. Where do I find the new law?**

The new law is found in Texas Education Code § 22.0834, which can be accessed through [www.tlo2.tlc.state.tx.us/statutes/statutes.html](http://www.tlo2.tlc.state.tx.us/statutes/statutes.html). This new law was created through the enactment of Senate Bill 9 (“SB 9”) by the 80<sup>th</sup> Legislature. Senate Bill 9 can be accessed through the Texas Legislative website at [www.capitol.state.tx.us](http://www.capitol.state.tx.us) and typing SB 9 into the search engine. Information regarding the fingerprinting obligations required by Senate Bill 9 can also be found on the Department of Public Safety (“DPS”) website at [www.txdps.state.tx.us](http://www.txdps.state.tx.us). Much of the information set forth in this Question-and-Answer document can also be found in the DPS publication, *Senate Bill 9 Background Check for Education: A Reference Guide*.

### **2. My company has been dealing with the school district for years with no problems. Why do I have to do anything different now?**

SB 9 has made potential changes for everyone who works with, or around, Texas schoolchildren. The purpose of the new law is to provide better safeguards for children. The employees of a Texas public school district will now have to be fingerprinted. Their information will be placed into a national criminal history database. As an entity that contracts with a Texas public school district, you potentially have individuals who may come into contact with schoolchildren. These individuals are now required to have some type of criminal history background check before they can perform their duties on school property.

### **3. Surely I do not have to conduct a criminal history background check on my receptionist and other employees who will never come into contact with a student! How do I know if the employee has to undergo a background check at all?**

You are correct that many employees will not have to undergo any type of criminal history background check at all. In order to determine whether an employee must undergo a criminal history background check, you must consider whether the person “has or will have continuing duties related to the contracted services” and whether the person “has or will have direct contact with students.” These phrases have become terms of art whose definitions are very important to the decision of whether an individual must undergo a criminal background check. Unfortunately, at this time, there are no official definitions for what each phrase actually means. If you have already completed a certification for San Antonio ISD, then you used the definitions provided on the certification form itself that our legal advisors recommended that we use. At the time of this writing, the Texas Education Agency was considering language for use in regulations that, once adopted, will offer a uniform definition of these phrases for use statewide. Until those regulations are adopted, our legal advisors recommend the following definitions that conform to the definitions on the certification form:

(1) “Continuing duties related to the contracted services” –

Regular, repetitive work duties that will be performed on District property, rather than a one-time or infrequent appearance or engagement.

(2) “Direct contact with students” –

Verbal or physical interaction with one or more students that is necessary for the performance of contracted services or that offers an opportunity for unsupervised interaction with students. Services that offer “direct contact” opportunities are those that are performed independently from school district staff involvement.

Direct contact can include chance contact, such as performing routine inspections or maintenance; contact with groups of students during organized activities; or more obvious examples, such as tutoring or therapy. However, incidental conduct that does not provide the opportunity for unsupervised interaction with a particular student, such as addressing an assembly, officiating at a sports contest, or judging an extracurricular event, is not “direct contact.”

**4. I keep hearing about the “fingerprinting law.” Am I going to have to start fingerprinting my employees in order to comply with this new law?**

The answer to this question depends on how long the covered employee has worked for you. There are two different types of criminal history background checks that are referenced in TEC § 22.0834:

- (1) Fingerprint Search Required – Any new employee hired on or after January 1, 2008, that meets the definition of the type of employee who must undergo a criminal history background check (as stated above), will have to submit fingerprints for “national criminal history record information.”
- (2) Name-Based Check / Fingerprints Search Not Required – If you hired the person before January 1, 2008, and they meet the definition of the type of employee who must undergo a criminal history background check, then they will not have to submit fingerprints, but you will have to obtain their criminal history record information from any law enforcement or criminal justice agency or private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. §§ 1681, et seq.).

We explain in Questions #7 and 8 how to conduct the two different types of background checks.

**5. What is the difference between a fingerprint-based search and a name-based search?**

According to the Department of Public Safety website, a fingerprint-based search is the most accurate method available of returning records based on matching fingerprints; a name-based search has a greater potential to match multiple candidates, as the search relies on a comparison of similar-sounding names or, if requested, names spelled exactly alike. With a name-based search, it is possible to match against records that do not relate to the person in whom you are interested, and it is possible to miss the record that does relate to the person in whom you are interested. For more questions and answers regarding criminal history searches, go to the Department of Public Safety’s website at [www.txdps.state.tx.us/administration/crime\\_records](http://www.txdps.state.tx.us/administration/crime_records).

**6. How do I conduct a name-based search on the employees who worked for me prior to January 1, 2008, who are otherwise covered?**

State statute requires this criminal history record information to be obtained from any law enforcement or criminal justice agency or private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. §§ 1681, et seq.). Therefore, the name-based searches do not have to be

conducted through the Department of Public Safety and can be conducted using any private background search provider that is required to operate through the Fair Credit Reporting Act.<sup>1</sup>

**7. How do I conduct a fingerprint search on my employees hired on or after January 1, 2008, or on new hires who are otherwise covered?**

**Step 1** – Establish an account with DPS Fingerprint-based Applicant Clearinghouse of Texas (“FACT”), which is a new service developed by DPS to ultimately fulfill the criminal history background checks of all non-criminal justice entities and to immediately fulfill the needs required by Senate Bill 9.

FACT Account – Submit a request to establish a FACT account to the Access and Dissemination Bureau of the Texas Department of Public Safety, Crime Records Service, as a PDF file via [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us), or to their address at P.O. Box 149322, Austin, Texas 78714-9322. On the email or letter, you should state:

*I am a contractor for a Texas public school district, specifically, the following District: San Antonio Independent School District, applying for access to the DPS FACT clearinghouse. Please forward the necessary application information to me at the following email address:*

\_\_\_\_\_.

Website Access – The Access and Dissemination Bureau will send you a response via email that will give you the address of a website where you must go to sign up for access to FACT. You will follow the instructions for FACT access. On that website, you will be given information regarding the following requirements:

Necessary Documents – Download, sign and return the following documents: (original signed copies must be sent via regular mail to DPS, Access and Dissemination Bureau, within 14 days. A signed copy can also be faxed to DPS).

- (1) Secure Site User Agreement
- (2) FACT User Agreement

Signing these documents says that you are agreeing to abide by the Security Policy for Non-Criminal Justice Agency Access, Use, and Dissemination of Criminal History Record Information.

- (3) Front and Signature Page from Contract with District

You will be requested to send a front page and signature page from your contract with the school district. Fax a copy to the Access and Dissemination Bureau and send one with the other signed agreements via regular mail. If you do not have a contract, contact **Pamela Morrison, Director of Materials Management at San Antonio ISD** and submit the letter (provided by Ms. Morrison) from the school district, on school district letterhead, in place of these requested documents.

Message Center – On that website, you will also receive information regarding your Message Center on the website. DPS will notify you when you have been approved, and a Fast Fingerprint Pass Form that has a User Number for your company to use on FACT will be sent to your Message Center.

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<sup>1</sup> *Senate Bill 9 Background Checks for Education: A Reference Guide*, January 1, 2008; [www.txdps.state.tx.us/administration/crime\\_records/docs/sb9referenceguide.pdf](http://www.txdps.state.tx.us/administration/crime_records/docs/sb9referenceguide.pdf); page 9

FAST Fingerprint Pass Form – The acronym FAST stands for “Fingerprint Applicant Services of Texas” (not to be confused with FACT). You will give a copy of the FAST form to every covered employee who must be fingerprinted (hired by you on or after January 1, 2008, and having continuing duties related to the contracted services that involve direct contact with students). There is a telephone number and email address on the form. The employee must contact the DPS FAST representative at this number or email address and set up an appointment to be fingerprinted.

**Step 2** – The employee must bring the FAST Fingerprint Pass Form to the scheduled appointment. The employee will have to pay a fee either when he/she schedules the appointment or when he/she actually gets fingerprinted.

Fees –

**\$44.20** - The total charges for the fingerprinting process, including the background checks. This fee includes the \$9.95 fingerprint fee, as well as the \$15 DPS fingerprint search fee and the \$19.95 FBI fingerprint search fee. It is a per-person fee.

Subsequent queries after the initial entry into the FACT system are \$1.00.

Payment Methods –

(1) Online, by credit card or debit card, at the time that the fingerprinting is scheduled. (Extra \$2 fee is added to the \$44.20, making the total \$46.20).

(2) Personal check, cashier’s check, or money order at the time of fingerprinting.

Fingerprints – After the fingerprints are taken, the FAST representative will send them to DPS and they will be searched through the Automated Fingerprint Identification System (“AFIS”), which checks those individuals arrested in Texas. DPS will also send them to the FBI, to be searched in the FBI AFIS system, to see if the person has been arrested in another state. The information will be collected by DPS and placed into the FACT Clearinghouse.

Results – You will receive an email notice that the results are available to review. To review the results, you must sign on to the FACT website.

Future Arrests – When you are first notified of the results of the employee’s background check, you are also automatically subscribed to that person’s record on the FACT system, and you will receive an email update if the person is arrested in Texas. If you ever receive an email update, you will have to sign on to the FACT website and review the notice.

It is our understanding that once an individual is in the FACT system, subsequent queries can be made using their driver’s license number, and cost is \$1.00. Therefore, you should only have to go through the fingerprinting process for an employee one time, regardless of the number of different school districts that the employee might serve.

## **8. Can I go to the local police station to get my fingerprints?**

No. In 2005, the Department of Public Safety entered into a contract with an L-1 Identity Solutions Company to provide statewide fingerprinting. The Fingerprint Applicant Services of Texas (“FAST”) was created by that contract. A “livescan” fingerprinting device is used to take electronic fingerprints. A digital photograph will also be taken. Although some school districts have purchased their own livescan



equipment, this is not the same type of equipment used when standard fingerprints are taken at a police station.

**9. What do I do with the criminal history information when I receive it through the FACT system?**

You must review it to determine whether the employee has any convictions that would prohibit employment with you for the contracted services. You must then certify to the school district with which you contract that you have received all required criminal history information. Use the certification form provided by the District.

**10. What convictions will mean that an employee is automatically prohibited by state law from serving at the district?**

These are found on the certification form and include:

- Title 5 felony offense convictions, which include all Offenses Against the Person. These can be found online at [www.tlo2.tlc.state.tx.us/statutes](http://www.tlo2.tlc.state.tx.us/statutes) and include criminal homicide, kidnapping and unlawful restraint; trafficking of persons; and sexual and assaultive offenses, and the offenses that fall under each of these categories.
- Offense that requires the individual to register as a sex offender; or
- Equivalent offense under the laws of another state;

**AND**, at the time the offense occurred, the victim was under the age of 18 or was enrolled in a public school.

An employee with any of the above criminal histories is prohibited from serving on a campus in a capacity that will render them a covered person.

**11. What if I review the information and cannot determine whether the employee has or has not been convicted of an act that would prohibit services at a public school district?**

Because the District is charged by law with the requirement of ensuring that all contracting entities have obtained all criminal history record information and may not allow an employee of a contracting entity who has a prohibited conviction from serving at the district, the District's Human Resources Department will assist you in reviewing the criminal history record information if you are uncertain of whether a conviction qualifies as a prohibited conviction. The District may also independently obtain the criminal history record information of one of your employees, or one of your subcontractor's employees, who will be serving at the District. Nevertheless, you must provide the certification to the District prior to sending your employees to serve.

**12. I am a contractor who subcontracts a lot of jobs to complete my projects for the District. These individuals are not really my employees, so do I have to conduct criminal background checks on them before sending them to a school district?**

Yes. Subcontractors who otherwise meet the definition of a "covered person" (explained in Question #4) must undergo a criminal background check. The definition of "covered person" in state law is an individual who is not an applicant for or holder of a Chapter 21 certificate and is employed or offered

employment by an entity that contracts with a school district to provide services.<sup>2</sup> Although the state regulations have not yet been adopted (or even fully drafted), we have consistently seen “covered person” defined to include the employees of a contractor’s subcontractors, as well as independent contractors who perform work for the district. The bottom line is – if you intend to provide a service to the District, anyone who performs work for you on a school campus is potentially considered a “covered person.”

**13. Okay, so going back to who is covered and who is not covered, my receptionist, who never leaves my main office that is 20 miles from any school, will not have to undergo a criminal background check, but the workers who lay brick for my subcontractor for the new elementary school cafeteria will have to undergo a background check. How can I prevent or at least lessen my burden?**

According to our legal advisors, if the covered person does not have “continuing duties related to the contracted services” or does not have “direct contact with students,” he or she would fall outside of the definition of covered person and would not have to undergo a criminal background check. Therefore, if the services that you are providing on a school campus do not otherwise require unsupervised interaction with students, ensuring that incidental unsupervised interaction does not occur would mean that a criminal history background check would not have to be conducted on those individuals. Some ideas that might assist you in making job assignments and/or ensuring that the opportunity for “direct contact with students” is not available include:

- Provide a portable toilet that is on a school campus if workers will be present during school hours.
- Fence off any job sites that are located on a school campus.
- Plan construction work on a school campus to be conducted during non-school hours.
- Draft rules for workers, and the subcontractors and their workers, that make clear the prohibitions against any student contact, whether direct or incidental.

This is not a comprehensive list. If you have ideas regarding how you can ensure that “direct contact” with district students will not occur, we encourage you to share your ideas with us. Furthermore, if you determine that individuals are not “covered” because precautions such as those listed above are put into place, you must ensure that the employees do not have direct contact with students.

**14. What do I do with the criminal history information?**

Complete the certification form included in this packet. There is also a certification form included in many of the District’s agreements. The school district’s obligation with respect to contracting entities is to receive a certification from each contracting entity that all of the required criminal history background checks have been conducted.<sup>3</sup> This certification should be completed prior to the performance of any services under the contract.

**15. What if I am an independent contractor?**

An independent contractor must comply with the new law. The Commissioner of Education has not yet published rules; however, at this time, it is our understanding that the draft rules may define the date of employment for an independent contractor as the date of the contract or agreement with the District, rather than the date that the employee was employed or offered employment by the contracting entity.

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<sup>2</sup> Tex. Educ. Code § 22.0834

<sup>3</sup> Tex. Educ. Code § 22.0834(i)

Additionally, the rules may also allow an independent contractor with a regular continuing series of agreements, with no break in performance of more than a calendar year, to consider the earliest date of employment to be the employment date. What this means for the independent contractor who has an ongoing relationship with the District that involves agreements on a semester-by-semester basis or otherwise is that the contractor can go back to the earliest agreement date in determining whether a name-based check can be conducted (employment prior to January 1, 2008) or whether a national criminal history background check, involving fingerprints and photographs, must be conducted.

If you are an independent contractor with a new relationship with the District, you must undergo the national criminal history background check. This involves the information set forth in Question #7. However, it is important to note that it is our understanding that once an individual is in the FACT system, subsequent queries can be made using your driver's license number. Subsequent queries are \$1.00.

**16. What should I do when an employee ceases to be employed by me?**

According to DPS, you should unsubscribe to that person's criminal history through the FACT system. Otherwise, you will continue to receive notices regarding the person's criminal history, even though you are only authorized to see his/her criminal history as long as he/she is employed by you. When you click "unsubscribe" on the FACT system website, the person will stay on your list of employees, but will be inactive. You can reactivate the person's record if he/she returns to employment with you in a capacity that would require the criminal background check. This feature will assist you with seasonal employees who leave and return often. Unauthorized access to criminal history background information is a crime.<sup>4</sup>

**17. What should I do if I receive an update regarding the criminal history of an employee who is serving at the District?**

If you receive an email notice that an employee has been arrested in Texas, you must sign in to the FACT system and review the notice. According to DPS, you must verify that the person is still employed with you prior to reviewing the notice. On the certification form, you agreed to notify the District within three (3) days of receiving information that a covered employee is ineligible for service at the District. The District has the right to review these employees' criminal histories; therefore, if you are unsure as to whether the employee has been rendered ineligible, send the District a copy of the notice and remove the employee from service at the District pending a final District decision.

**18. I left the FACT system website up on my computer screen and went for a cup of coffee. When I returned, my 19-year-old nephew and his friend, who are working for me over the summer, were reviewing the criminal histories of our employees. What are the legal implications of this action?**

We recommend that if a security breach occurs, you contact DPS immediately. You could be found in violation of the law that prohibits unauthorized access to criminal history information. You are only allowed to use the FACT system for purposes involving service to the school district under the laws set forth in Senate Bill 9. The FACT system has a security policy that you must read and follow. Additionally, DPS has stated that they will audit the use of the criminal file history and of the FACT system to verify that the information is only being requested and used for authorized purposes. It is your responsibility to keep the information confidential and limit access to the least number of persons needed to review records. The contact information for DPS regarding questions is:

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<sup>4</sup> Tex. Gov't Code § 411.083

[FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us); (512) 424-2365

**19. Who is my contact at the District?**

If you have questions that involve service to the District or must send criminal history regarding an employee to the District for review, you should contact:

Pamela Morrison, Director of Materials Management, [pmorrison@saisd.net](mailto:pmorrison@saisd.net), (210) 224-2781.

Her office may direct you to another District department for assistance or to DPS for assistance with legal information and information pertaining to the FACT system.