

Charlotte County Public Schools
Jessica Lunsford Act
Fingerprinting Guidelines
July 2009

Background

During the 2006 legislative session, the Jessica Lunsford Act was amended. This is a comprehensive law designed to strengthen the monitoring and control of sexual predators and offenders. This Act affects school districts because it requires background screening of certain designated personnel who interact with schools.

Relevant portions of the Jessica Lunsford Act, as amended, are reprinted below.

F.S. 1012.465. Background screening requirements for certain non-instructional school district employees and contractors.

- (1) Except as provided in F.S. 1012.467 and F.S. 1012.468, non-instructional school district employees or non-instructional contractual personnel who are permitted access on school grounds when students are present, or who have direct contact with students or who have access to or control of funds must meet level II screening requirements as described in F.S. 1012.32. Contractual personnel shall include any vendor, individual, or entity under contract with the school board.

F.S. 1012.467- Non-instructional contractors who are permitted access to school grounds when students are present; background screening requirements.

- (1) As used in this section, the term:
 - (a) "Non-instructional contractor" means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for the school district or a school, but who is not otherwise considered an employee of the school district. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.
 - (b) "Convicted" has the same meaning as in F.S. [943.0435](#).
 - (c) "School grounds" means the buildings and grounds of any public pre-kindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, or any combination of grades pre-kindergarten through grade 12, together with the school district land on which the buildings are located. The term does not include:

1. Any other facility or location where school classes or activities may be located or take place;
 2. The buildings and grounds of any public pre-kindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, or any combination of grades pre-kindergarten through grade 12, or contiguous school district land, during any time period in which students are not permitted access; or
 3. Any building described in this paragraph during any period in which it is used solely as a career or technical center under part IV of chapter 1004 for postsecondary or adult education.
- (2)(a) A fingerprint-based criminal history check shall be performed on each non-instructional contractor who is permitted access to school grounds when students are present, whose performance of the contract with the school or school board is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent and incidental. Criminal history checks shall be performed at least once every 5 years. For the initial criminal history check, each non-instructional contractor who is subject to the criminal history check shall file with the Department of Law Enforcement a complete set of fingerprints taken by an authorized law enforcement agency or an employee of a school district, a public school, or a private company who is trained to take fingerprints. The fingerprints shall be electronically submitted for state processing to the Department of Law Enforcement, which shall in turn submit the fingerprints to the Federal Bureau of Investigation for national processing. The results of each criminal history check shall be reported to the school district in which the individual is seeking access and entered into the shared system described in subsection (7). The school district shall screen the results using the disqualifying offenses in paragraph (g). The cost of the criminal history check may be borne by the district school board, the school, or the contractor. A fee that is charged by a district school board for such checks may not exceed 30 percent of the total amount charged by the Department of Law Enforcement and the Federal Bureau of Investigation.
- (b) As authorized by law, the Department of Law Enforcement shall retain the fingerprints submitted by the school districts pursuant to this subsection to the Department of Law Enforcement for a criminal history background screening in a manner provided by rule and enter the fingerprints in the statewide automated fingerprint identification system authorized by F.S. [943.05](#)(2)(b). The fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered into the statewide automated fingerprint identification system under F.S. [943.051](#).
- (c) As authorized by law, the Department of Law Enforcement shall search all arrest fingerprint cards received under F.S. [943.051](#) against the

fingerprints retained in the statewide automated fingerprint identification system under paragraph (b).

- (d) School districts may participate in the search process described in this subsection by paying an annual fee to the Department of Law Enforcement.
- (e) A fingerprint retained pursuant to this subsection shall be purged from the automated fingerprint identification system 5 years following the date the fingerprint was initially submitted. The Department of Law Enforcement shall set the amount of the annual fee to be imposed upon each participating agency for performing these searches and establishing the procedures for retaining fingerprints and disseminating search results. The fee may be borne as provided by law. Fees may be waived or reduced by the executive director of the Department of Law Enforcement for good cause shown.
- (f) A non-instructional contractor who is subject to a criminal history check under this section shall inform a school district that he or she has completed a criminal history check in another school district within the last 5 years. The school district shall verify the results of the contractor's criminal history check using the shared system described in subsection (7). The school district may not charge the contractor a fee for verifying the results of his or her criminal history check.
- (g) A non-instructional contractor for whom a criminal history check is required under this section may not have been convicted of any of the following offenses designated in the Florida Statutes, any similar offense in another jurisdiction, or any similar offense committed in this state which has been re-designated from a former provision of the Florida Statutes to one of the following offenses:
 - 1. Any offense listed in F.S. [943.0435](#)(1)(a)1., relating to the registration of an individual as a sexual offender.
 - 2. Section F.S. [393.135](#), relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.
 - 3. Section F.S. [394.4593](#), relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.
 - 4. Section F.S. [775.30](#), relating to terrorism.
 - 5. Section F.S. [782.04](#), relating to murder.
 - 6. Section F.S. [787.01](#), relating to kidnapping.

7. Any offense under chapter 800 relating to lewdness and indecent exposure.
 8. Section F.S. [826.04](#), relating to incest.
 9. Section F.S. [827.03](#), relating to child abuse, aggravated child abuse, or neglect of a child.
- (3) If it is found that a non-instructional contractor has been convicted of any of the offenses listed in paragraph (2)(g), the individual shall be immediately suspended from having access to school grounds and shall remain suspended unless and until the conviction is set aside in any post-conviction proceeding.
 - (4) A non-instructional contractor who has been convicted of any of the offenses listed in paragraph (2)(g) may not be permitted on school grounds when students are present unless the contractor has received a full pardon or has had his or her civil rights restored. A non-instructional contractor who is present on school grounds in violation of this subsection commits a felony of the third degree, punishable as provided in F.S. [775.082](#) or F.S. [775.083](#).
 - (5) If a school district has reasonable cause to believe that grounds exist for the denial of a contractor's access to school grounds when students are present, it shall notify the contractor in writing, stating the specific record that indicates noncompliance with the standards set forth in this section. It is the responsibility of the affected contractor to contest his or her denial. The only basis for contesting the denial is proof of mistaken identity or that an offense from another jurisdiction is not disqualifying under paragraph (2)(g).
 - (6) Each contractor who is subject to the requirements of this section shall agree to inform his or her employer or the party to whom he or she is under contract and the school district within 48 hours if he or she is arrested for any of the disqualifying offenses in paragraph (2)(g). A contractor who willfully fails to comply with this subsection commits a felony of the third degree, punishable as provided in F.S. [775.082](#) or F.S. [775.083](#). If the employer of a contractor or the party to whom the contractor is under contract knows the contractor has been arrested for any of the disqualifying offenses in paragraph (2)(g) and authorizes the contractor to be present on school grounds when students are present, such employer or such party commits a felony of the third degree, punishable as provided in F.S. [775.082](#) or F.S. [775.083](#).
- (7)(a) The Department of Law Enforcement shall implement a system that allows for the results of a criminal history check provided to a school district to be shared with other school districts through a secure Internet website or other secure electronic means. The Department of Law Enforcement may

adopt rules under F.S. [120.536](#)(1) and F.S. [120.54](#) to implement this paragraph.

- (b) An employee of a school district, a charter school, a lab school, a charter lab school, or the Florida School for the Deaf and the Blind who requests or shares criminal history information under this section is immune from civil or criminal liability for any good faith conduct that occurs during the performance of and within the scope of responsibilities related to the record check.

1012.468 - Exceptions to certain fingerprinting and criminal history checks.

- (1) As used in this section, the term "non-instructional contractor" means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for the school district or a school, but who is not otherwise considered an employee of the school district. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.
- (2) A district school board shall exempt from the screening requirements set forth in F.S. [1012.465](#), F.S. [1012.467](#), the following non-instructional contractors:
 - (a)1. Non-instructional contractors who are under the direct supervision of a school district employee or contractor who has had a criminal history check and meets the screening requirements under F.S. [1012.32](#), F.S. [1012.467](#), F.S. [1012.467](#) or F.S. [1012.56](#). For purposes of this paragraph, the term "direct supervision" means that a school district employee or contractor is physically present with a non-instructional contractor when the contractor has access to a student and the access remains in the school district employee's or the contractor's line of sight.
 - 2. If a non-instructional contractor who is exempt under this subsection is no longer under direct supervision as specified in subparagraph 1., the contractor may not be permitted on school grounds when students are present until the contractor meets the screening requirements in F.S. [1012.465](#) or F.S. [1012.467](#).
- (b) Non-instructional contractors who are required by law to undergo a level II background screening pursuant to F.S. [435.04](#) for licensure, certification, employment, or other purposes and who submit evidence of meeting the following criteria:
 - 1. The contractor meets the screening standards in s. [435.04](#);

2. The contractor's license or certificate is active and in good standing, if the contractor is a licensee or certificate holder; and
 3. The contractor completed the criminal history check within 5 years prior to seeking access to school grounds when students are present.
- (c) A law enforcement officer, as defined in s. [943.10](#), who is assigned or dispatched to school grounds by his or her employer.
 - (d) An employee or medical director of an ambulance provider, licensed pursuant to chapter 401, who is providing services within the scope of part III of chapter 401 on behalf of such ambulance provider.
 - (e) Non-instructional contractors who remain at a site where students are not permitted if the site is separated from the remainder of the school grounds by a single chain-link fence of 6 feet in height.
 - (f) A non-instructional contractor who provides pickup or delivery services and those services involve brief visits on school grounds when students are present.
- (3)(a) A non-instructional contractor who is exempt under this section from the screening requirements set forth in F.S. [1012.465](#) or F.S. [1012.467](#) is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under F.S. [943.043](#) and the National Sex Offender Public Registry maintained by the United States Department of Justice. The school district shall conduct the search required under this subsection without charge or fee to the contractor.
 - (b) A non-instructional contractor who is identified as a sexual predator or sexual offender in the registry search required in paragraph (a) may not be permitted on school grounds when students are present. Upon determining that a non-instructional contractor may not be permitted on school grounds pursuant to this subsection, the school district shall notify the vendor, individual, or entity under contract within 3 business days.
- (4) A school district may not subject a contractor who meets the requirements in subsection (2) to an additional criminal history check. Upon submission of evidence and verification by the school district, the school district must accept the results of the criminal history check for the contractor.
 - (5) This section and F.S. [1012.465](#) and F.S. [1012.467](#) do not create or imply any private cause of action for a violation of these sections and do not create any new duty of care or basis of liability.

District Responsibilities

The District Administrative Office shall perform the following:

1. Notify vendors, contractual personnel, and any other entities who are under contract with the school board regarding the requirements of the Jessica Lunsford Act via the website.
2. Conduct Level II background screening:
 - a. The school district must conduct the fingerprint/background screening of the contractual personnel at the Human Resources office at the Murdock Center. Agencies will submit a list of those who will need to be fingerprinted; they will be instructed to have those individuals call HR to set up appointments. When making appointments, the HR staff will inform individuals to bring a stamped, self-addressed envelope if the Lunsford Card is to be mailed. Individuals will be informed it may take a week or more to get the results reviewed and the card mailed.
 - b. Costs for fingerprinting and storage of the digital fingerprints shall be paid in accordance with the attached listing of individuals and entities who may, or may not, be affected by the Act.
 - c. The screening results will be reviewed by HR/Security Supervisor to determine whether the individual has been convicted of a disqualifying offense, using the standards listed in 1012.467, F.S.
 - d. An ID, *the Lunsford Card*, confirming the Level II clearance for the current school year will be given to the individuals. The color of the card will change for each year. The following applies for issuance of renewal badge:
 - (1) Applicants complete and sign the Level II Clearance for Contracted Services forms and submit them to the contractor/vendor
 - (2) Contractors/vendors collect the forms and arrange for them to be brought to HR, along with a \$20 fee for each card. Fee is payable by cash or money order only.
 - (3) HR will call the contact person for the contractor/vendor when the cards are ready to be picked up, unless arrangements were made to have the cards mailed.
 - (4) The designated person from the contractor/vendor comes to HR to pick up the cards and sign the log.
 - e. HR/Security Supervisor will maintain a record of individuals fingerprinted and ID cards issued.
3. Sharing of records with other districts:
 - a. If vendors, contractors, sports officials, etc. provide proof to the HR Director of CCPS/District Security Supervisor that they have been cleared by other school districts as mandated by law, they may not need to be fingerprinted in CCPS. The determination shall be made by District Security Supervisor/HR Director/Assistant Superintendent of HR & ER. These vendors will be charged \$20 for a CCPS-issued Lunsford Card.

4. Maintenance of records:
 - a. The FDLE will notify our district of any new arrests by individuals who have been fingerprinted.
 - b. HR/Security Supervisor will notify the FDLE of changes in affiliation, employment, contractual status of individuals previously fingerprinted.
 - c. Individuals who have a break in their service will have to be re-fingerprinted. Individuals who have an on-going contract with the district will not have to be re-fingerprinted unless required by law.

5. Sexual predator/offender website clearance (F.S. 1012.468):
 - a. The application may be obtained from CCPS HR Department at 1445 Education Way, Port Charlotte, FL, or at www.YourCharlotteSchools.net.
 - b. One form is to be completed for each employee and returned to the HR Department.
 - c. If the contractor's employee/vendor is not listed as a Sexual Predator/Offender in the Florida or federal databases, then a 1012.468 Clearance Lunsford Card will be issued. The cost of the Lunsford Card is \$20.00 and is valid for current school year only. This card will be a different color from the Level II card.
 - d. There will be no charge for the website search.

School Responsibilities

Each School shall perform the following:

Ask visitors at your school for ID and have them sign in. Ask vendors/contracted individuals who appear on campus during times when students are present, or who have access to school funds, to show the CCPS *Lunsford Card* that states they have either a level II clearance or 1012.468 clearance. These cards resemble the CCPS ID badge but each is a different color, clearly states the level of clearance, and is valid for this school year only. Refer individuals who do not have a *card* or *who have a card with an expired date* to the district office. The card is valid for the current school year and must be renewed each year.

NOTE: there may be emergency circumstances that do not permit these individuals to wait for clearance from the HR Dept. before they provide the needed services at your school. Examples are deliveries that need to be made, emergency repairs, etc. These individuals should show you their ID, sign in, be escorted to their destination, and be monitored when students are present, and remain in line of sight by an individual who has level II clearance.

Maintenance & Operations has developed a process to monitor these individuals and entities as required by law. School administrators are also expected to use due care to monitor these projects while students are present. Schools with active construction sites may request permission to hire an additional substitute to assist with monitoring.

Each school is expected to stay current with updates provided by the district office on the Act.

Vendor and Contractor Responsibilities

Each Vendor and Contractor of Charlotte County Public Schools shall comply with the following:

1. Provide HR with a list of individuals and their social security number who need to be fingerprinted or screened on the sexual predator/offender websites.
2. For individuals exempt from level II clearance under 1012.468, complete the application for website screening and return to the HR Department. Once the website search has been conducted and the individual cleared, you will be notified when the "1012.468 Clearance" card is ready. There is no charge for the website search, but there is a \$20 charge for the ID card, which is valid for the current school year only. The color of the card will change for each year.
3. For individuals subject to level II clearance, inform the individuals to contact HR to set up appointments for fingerprinting and to bring a stamped, self-addressed envelope so that the Lunsford Card can be sent upon their meeting the level II screening criteria. Individuals will also fill out an information sheet. The screening may take about a week. The cost will be \$100, payable by money order to Charlotte County Public Schools. The color of the card will change for each year.
4. Vendors/contractors may provide HR with proof that the individuals have been fingerprinted in other districts and passed the level II criteria and any other criteria the fingerprinting district requires so a determination can be made whether CCPS can accept the clearance from other districts. If we accept the clearance from another district, the individuals will need to be issued a Lunsford Card from CCPS. The cost for the card will be \$20.
5. Pay the appropriate fee for fingerprinting, storage fees and any service fees that may be charged.
6. Notify HR when individuals have left their companies so that HR can notify DOE to no longer store those prints.
7. Follow the procedure to secure renewal cards each year. Renewal cards for the new school year will be available beginning May 1st. The following applies:
 - (1) Applicants complete and sign the Level II Clearance for Contracted Services forms and submit them to the contractor/vendor
 - (2) Contractors/vendors collect the forms and arrange for them to be brought to HR, along with a \$20 fee for each card. Fee is payable by cash or money order only.
 - (3) HR will call the contact person for the contractor/vendor when the cards are ready to be picked up, unless arrangements have been made in advance to have the cards mailed.

- (4) The designated person from the contractor/vendor comes to HR to pick up the cards and sign the log.
8. Monitor the district's web site, www.YourCharlotteSchools.net for updates and changes in the procedure.

Process for Sports Officials

New legislation has allowed some exceptions from the Level II clearance, see F.S. 1012.468. One exception applies to vendors/contractors who are under the direct supervision of a school district employee or contractor who has Level II clearance. Those who qualify for the exception are still subject to have their name checked against the state and national sexual predator/offender databases. Sports officials/referees fall within this exception. Process:

1. Each official/referee is required to complete an application for website screening. Forms are available in HR.
2. Once the individual has been cleared, he/she will be issued an ID card with "1012.468 F.S. clearance." This is not the same as a Level II card. It will be a different color.
3. When the officiating team arrives at your school, the designated school district employee will check to make sure at least one member of the officiating team has a Level II card and all the others have the 1012.468 clearance card.
4. In the event no one has the Level II card, a school employee is to be designated to be the line of sight supervisor and will be responsible for keeping the official in "line of sight" for the entire time he/she is on campus.