

ATTACHMENT II
Text of Adopted Amendment to 19 TAC

Chapter 153. School District Personnel

Subchapter DD. Criminal History Record Information Review

§153.1101. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Clearinghouse--The criminal history clearinghouse established by the Texas Department of Public Safety (DPS) pursuant to the Texas Government Code, §411.0845.
- (2) Continuing duties related to contracted services--Work duties that are performed pursuant to a contract to provide services to a school entity on a regular, repeated basis rather than infrequently or one-time only.
- (3) Covered contract employee--An individual who:
 - (A) is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of the school entity, or is an individual subcontractor of a service contractor;
 - (B) has or will have continuing duties related to the contracted services;
 - (C) has or will have direct contact with students; and
 - (D) is not a student ~~of (or enrolled in)~~ ~~in~~ the school entity ~~for which~~ ~~where~~ the services are performed.
- (4) ~~(2)~~ Criminal history record information--In accordance with the Texas Government Code, §411.082(2), information collected about a person by the DPS, a law enforcement or a criminal justice agency, or a private entity governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. ~~[The term does not include fingerprint identification information.]~~
- (5) Date of employment--For purposes of the Texas Education Code (TEC), §22.0834, the date of employment by an entity that contracts with a school entity shall be deemed to be:
 - (A) with respect to an individual independent contractor, the date of the contract or agreement to provide services to the school entity; ~~and~~
 - (B) with respect to a covered contract employee of a service contractor, the date the employee began providing services to the contractor for compensation ; ~~and~~ ~~;~~
 - (C) with respect to an employee or independent contractor of a subcontractor of a service contractor, the later of the date the service contractor secures the services of the subcontractor and the date the subcontractor secures the services of the employee or independent contractor.
- (6) Date of securing services--For purposes of the TEC, §22.0834 ~~§22.0834(e)~~ , the date of securing the services of a covered contract employee ~~or a subcontractor~~ by an entity that contracts with a school entity shall be deemed to be the date the employee ~~or subcontractor~~ accepts an offer from the service contractor for a specific job position or for the performance of a specific project that is to begin on a date that is certain or reasonably ascertainable.
- (7) Direct contact with students--The contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional district employee. Contact with students that results from services

that do not provide substantial [the] opportunity for unsupervised interaction with a [an individual] student or students , such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial [the] opportunity for unsupervised contact with students, which might include [such as] , without limitation, the provision of [individualized] coaching, tutoring, or other services to students .

(8) ~~(3)~~ National criminal history record information--In accordance with the TEC, [Texas Education Code,] §22.081, criminal history record information obtained from both the DPS and the Federal Bureau of Investigation based on fingerprint identification information.

(9) ~~(4)~~ School entity--A Texas school district, an open-enrollment charter school, or a shared services arrangement.

(10) Service contractor--An entity, including a government entity and an individual independent contractor, that contracts or agrees with a school entity by written agreement or verbal understanding to provide services through individuals who receive compensation [, whether by written agreement or verbal understanding. A government entity that provides services such as, without limitation, monitoring, compliance, and technical assistance, to a school entity through individuals that are employed and compensated by the government entity, is also a service contractor] . However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protective Services is not a service contractor, and the investigator or intervener is not a covered contract employee.

(11) ~~(5)~~ Substitute teacher--A teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.