

RESOLUTION

ESTABLISHING PROCEDURES TO REQUIRE, PROCESS, AND MANAGE CRIMINAL RECORDS CHECKS FOR CERTAIN INDIVIDUALS EMPLOYED BY OR WORKING UNDER CONTRACT, OR INDIRECTLY RECEIVING FUNDING FROM LANE TRANSIT DISTRICT

WHEREAS, Oregon Senate Bill (SB) 1334 amending ORS 181.537, et seq., provides access to Oregon State Police and Federal Bureau of Investigation (FBI) criminal records if the information is required to protect vulnerable Oregonians, including children, the elderly, and individuals with disabilities; and

WHEREAS, SB 1334 requires criminal records checks and fingerprinting of individuals who operate motor vehicles for the public and who are employed by the District as current employees and who are prospective employees (job applicants), and individuals under contract who transport the general public, including children, the elderly, individuals with disabilities, and clients eligible for OMAP, and; requires consideration of criminal records and related criteria, history and traditional criteria, such as safe driving records; and

WHEREAS, this Resolution establishes guidelines, policies, and procedures related to how Lane Transit District (LTD) will conduct criminal background information for subject individuals and qualified entities as required by SB 1334 under the direction of the General Manager; and

WHEREAS, SB 1334 requires that transit districts adopt a resolution establishing rules in order to comply with and further define provisions of SB 1334, which is to be accomplished in consultation with the Oregon Department of State Police and affected provider groups;

NOW, THEREFORE, BE IT RESOLVED:

1. Lane Transit District's General Manager or her/his designee under her/his direction shall, in consultation with the Oregon Department of State Police and affected provider groups, establish internal policies and procedures that specifically implement the general guidelines established below.
 - A. Categories of individuals subject to criminal background checks.

All persons employed by, under contract with, or indirectly funded by grant by LTD to transport passengers for regular routes, and Ride Source shall be subject to criminal records checks ("Subject Individuals"). The General Manager is delegated the authority to designate other persons who perform transportation services using

LTD funds and LTD pass-through funds, including STF funding as "Subject Individuals."

In the event a qualified entity confirms that a state agency has determined that a subject individual is suitable to provide services to vulnerable Oregonians based on criminal offender information obtained pursuant to Sections 1 and 2 of Chapter 1057, Oregon Laws 1999 (ORS 181.537 (1) through (17)), then such determination of suitability shall satisfy the requirements provided for in this Resolution. Such determination shall be confirmed and certified by the qualified entity and/or state agency in such fashion as the General Manager shall require.

B. Information (including fingerprints) that will be required.

Driver qualifications requirements include current LTD criteria historically relied upon in the selection process, and in addition shall include the requirement of a nationwide criminal records check based on fingerprints submitted to OSP, and an application of relevant criteria hereinafter described. Subject Individuals who refuse a criminal records check or fingerprinting or who make false statements or omit facts about his/her criminal background will be disqualified from employment.

C. Criteria for determining whether a Subject Individual is fit to operate motor vehicles to transport agency passengers.

LTD's hiring criteria includes, but is not limited to, customer service skills and/or experience, driving record, work experience, medical and drug screening, and absence of convictions for crimes that are indicative of behavior or choices that could impact adversely on public safety, property or life. The General Manager shall develop a specific list of crimes affecting fitness for employment in accordance with the general guidelines set forth in Paragraph 1(G) of this Resolution.

D. Programs, services or social service providers qualified to request or provide criminal offender information.

The following sources are qualified to provide criminal background reports:

Oregon State Police (OSP)

Oregon Judicial Information Network (OJIN)

LTD may also contract with private providers authorized to access and provide criminal offender information.

- E. Programs, services, or social service providers qualified to determine fitness for a position, service, license, certification, registration or employment.

LTD is authorized to evaluate criminal records to determine fitness for employment. LTD will conduct this service and advise LCOG of the approval or disapproval of applicants. Non-governmental entities that provide services by contract directly or are indirectly funded from LTD shall comply with the provisions of this resolution and criminal records check policies adopted by LTD.

LTD employees designated by the General Manager, LTD's labor and employment counsel in cases deemed appropriate by the General Manager or her/his designee, are authorized to evaluate criminal records and are authorized to determine fitness for employment.

- F. Employees authorized to make criminal records inquiries.

The General Manager or her/his designee, in consultation with the Oregon Department of State Police, shall designate in writing LTD staff members authorized to request criminal background checks.

- G. Crimes which may be considered in reviewing criminal offender information.

Convictions for crimes that are indicative of behavior or choices that could impact public safety, property, or life adversely or other factors related to the subject individual's position will disqualify the Subject Individual from employment. These could include any conviction, regardless of where or when it occurred. The General Manager shall publish a list of crimes that will be considered in accordance with the general guidelines set forth in this Section G. The guidelines listed below do not limit the General Manager's authority to modify the categories of crimes or consider other categories of crimes not listed in this Resolution.

Criminal offenses that affect employment are convictions for felonies and misdemeanors, including traffic crimes, which reflect upon fitness for employment because of the nexus between the wrongful choices made by the Subject Individual and a risk to a person's life, property or public safety. In cases where an applicant or employee hired conditionally contends that a record is not job disqualifying, the

General Manager or her/his designee will consider the following factors in determining fitness and suitability for employment.

- 1) The nature of the crime;
- 2) The facts that support the conviction or pending indictment or that indicate a false statement;
- 3) The relevancy, if any, of the crime or false statement to the position requirements; and
- 4) Intervening circumstances which are relevant to the responsibilities and circumstances of the position (such as and not limited to the passage of time since the commission of the crime, age at time of commission, restitution, likelihood of repetition of the behavior, subsequent commission of another relevant crime, and the credible recommendation of an employer or other reliable reference information obtained by LTD.

This Resolution shall not confer any right on an applicant to appeal a determination that the applicant is not among the most qualified or most suitable for employment by the District, nor shall appeal rights provided for in this Resolution apply to a determination made based on information provided by an applicant during the application process.

GENERAL GUIDELINES FOR DETERMINING FITNESS FOR EMPLOYMENT

	Type of Offense*	Class of Offense	Time Frame To Consider
1.	Offenses against persons	Felony	Forever
		Misdemeanor	10 years
2.	Offenses against property	Felony	20 years
		Misdemeanor	5 years
3.	Offenses involving fraud or deception	Felony	15 years
		Misdemeanor	5 years
4.	Offenses against public order; firearms and other weapons-related offenses; racketeering	Felony	15 years
		Misdemeanor	5 years
5.	Offenses against public health, decency, and animals	Felony	15 years
		Misdemeanor	10 years
6.	Controlled substances, illegal drug cleanup, paraphernalia, precursors;** major traffic offenses and DUI's or diversions	Felony	15 years
		Misdemeanor	10 years

*Any offense committed with a weapon or which results in serious injury to any person shall be considered forever.

**Consideration of crimes involving drugs shall include an appropriate current risk assessment, prior treatment, proof of recovery from an established and proven disability and confidence of the decision maker based on the totality of information received that the applicant has no current connection with illegal controlled substances and drug activity. The burden of establishing absence of risk factors in on the Subject Individuals.

H. Nationwide criminal records check through State Police.

LTD will submit fingerprint cards to the Oregon Department of State Police. The General Manager shall determine how and under what circumstances such charges will be paid by LCOG, its sub-contractors, and/or applicants.

I. Development of an agency system to maintain criminal records check data.

The General Manager or her/his designee shall develop a comprehensive record keeping system to maintain criminal records data under the custody and control of the Human Resources Department. The General Manager or her/his designee shall ensure that data contained within the system of criminal records shall remain confidential and is not disseminated except in accordance with Oregon and federal law, and that the data is maintained and destroyed in strict accordance with law.

J. When a previous criminal records (information maintained by the District) may be used in lieu of a complete new check.

The General Manager shall develop specific criteria to determine when a determination based on a previous criminal records check of a Subject Individual may be relied upon in lieu of a new check.

K. Conditions under which persons may participate in training, orientation, or work, pending completion of a criminal records check.

All new hires are provided with training and work only under supervision during the initial training period. A person hired on a trial service basis, pending completion of a criminal records check, will be actively supervised at all times when with children, the elderly, or persons with disabilities. If there is any indication of prior criminal activity that may involve job disqualifying crimes described in Paragraph 1(G) of this Resolution, LTD will not hire or will defer hiring until the criminal check has been completed.

L. Rights of notification and appeal.

1) Notification

A statement on the job application shall inform applicants that a criminal records check and fingerprints are required for employment in any position involving operating District vehicles for public transport. Each applicant must sign a release in the form presented by the District authorizing the criminal check and fingerprinting. Each applicant shall be informed that any Subject Individual who refuses to sign a release authorizing the criminal history check, or who provides false information relating to his/her criminal history

shall not be considered for employment by the District in any capacity.

2) Appeal

A person who is disqualified from a position based on criminal history information provided by the Oregon State Police or the Federal Bureau of Investigation shall be provided a written notification, which shall contain the District's procedure for appeal of that determination. The person may request a hearing in accordance with District procedures. Prior to scheduling of a hearing, a mandatory conference shall be convened between the Subject Individual and the District to review all available information and determine the need for a hearing.

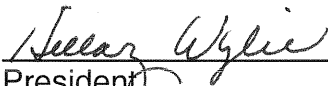
The issue at a hearing shall be limited to the determination by the District that the person is disqualified based on a criminal offender information records check. The hearing shall not involve any consideration related to the accuracy or completeness of information provided by any law enforcement agency.

The General Manager shall establish the appeal procedures, and is authorized to appoint a hearings officer to conduct hearings and make necessary rules for the conduct of the hearing consistent with this Resolution. The hearing shall afford the person a reasonable opportunity to present witnesses and other evidence. The hearings officer shall render a written decision which shall be final if adopted and approved by the General Manager. The General Manager may reserve to the General Manager such review authority as the General Manager deems appropriate.

Failure to submit a proper request for a hearing or to appear at a scheduled conference or hearing shall constitute a waiver of the right to a hearing established by this Resolution.


- M. The General Manager is authorized to develop, publish, and modify, as needed, the internal policy that implements the guidelines established by this Resolution.
- N. This Resolution shall be applied retroactively to all District employees hired on and after October 23, 1999, whose employment is conditional upon a favorable criminal records check.

ADOPTED by the Board of Directors of the Lane Transit District this 16th day of February, 2000.



President
Board of Directors

ATTEST:



Secretary to the
Board of Directors