

## **Standards for Employment of School Bus and School Van Drivers with Criminal Charges and Convictions**

Provided by the Pupil Transportation Office, Ohio Department of Education  
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The requirements for background checks for school transportation drivers have changed several times since 2007. With the July 2012 implementation of OAC 3301-83-23, one final adjustment is implemented as required by law. This code is similar to the existing practice, but adds certain additional disqualifying events. This document supersedes all other documents published on this matter.

Employment of individuals for school transportation is governed by various statutes in the Ohio Revised Code and rules in the Ohio Administrative Code. This document is provided to assist individuals, school district personnel and others in the education community in applying the requirements pertaining to criminal background checks for school transportation staff.

### Disclaimer

This information is not intended to be used as legal advice. It is intended to be used as general information and for guidance as it only provides a limited summary of parts of the statutes and administrative rules regarding licensure and employment for persons with certain criminal convictions. For additional information, consult the Ohio Revised Code and the Ohio Administrative Code as referenced below. If you have a specific legal issue or question, please consult with your legal counsel. For general inquiries, you may contact the Ohio Department of Education's Pupil Transportation Office at 614/466-4230.

### Raising the Ethical Standards in Ohio

The State Board of Education and the state legislature have enacted policy and law to ensure that all individuals who work in Ohio's education system are appropriate to be in the profession. Various regulations apply to teaching staff, nonteaching staff, and pupil transportation drivers. One very significant aspect of these regulations is the completion of a criminal background check for all the aforementioned employees.

A brief synopsis of the changes in regulations for criminal background checks specific for pupil transportation drivers is as follows:

- 1984—Rules adopted by State Board of Education that recommend a criminal background check for bus drivers.
- 1991—Criminal background checks become mandatory for all new pupil transportation drivers, and are required to be renewed every 2 years.
- 1998—Rule requiring criminal background check is revised to require a new check every 6 years with driver recertification instead of every 2 years.
- 2007 (July 1) – SB 97 becomes effective that requires employers to obtain federal information in addition to the state information for each new transportation employee.
- 2007 (Nov 14) – HB 190 becomes effective requiring employers to obtain federal information in addition to state information for all employees on a regular cycle. For drivers of pupil transportation vehicles, this includes preemployment and at their 6 year renewal. This bill also adds language to RC 3327.10 (K) that identifies criminal offenses to be monitored and a rehabilitation program for some of those offenses.
- 2008 (Sep 12) – HB 428 becomes effective; amending R.C. 3327.10(K) to refer to the list of criminal offenses in 3319.31 (C) that are absolute bars from employment for drivers of

pupil transportation vehicles. The bill also removes any reference to rehabilitation for other offenses. This same bill also requires districts to suspend any employee arrested, summoned or indicted for an alleged violation of offenses listed in 3319.31 (C) (if a licensed employee) or 3319.39 (B)(1) (if a non-licensed employee).

- 2010 (Jan 1) – HB 1 amendment becomes effective that eliminates the need for a state bcii check for re-certifying drivers if an initial check was completed at hiring and if they can prove Ohio residency for the previous 5 years. FBI checks are still required for all recertifying drivers.
- 2010 (Mar 29) – HB 19 takes effect, changing the disqualifying offenses for pupil transportation drivers, and directing ODE to amend its rule 3301-83-23 to include a new list of disqualifying offenses specific to school bus and school van drivers, and the rehabilitation standards for them. Until that rule is amended school bus and school van drivers are evaluated in accordance with rule 3301-20-03.
- 2012 (July 1) – Ohio Administrative Code 3301-83-23 takes effect, and becomes the final determination of eligibility for pupil transportation drivers.

The culmination of this progressive series of revisions in the law is that a specific list of criminal convictions is identified that precludes individuals from employment as a school bus or school van driver. Rules have been adopted that require these criminal records to be checked for each driver at preemployment and with each driving certification renewal. It is the intent of these laws and rules that only appropriate individuals seeking employment in pupil transportation be hired, and that Ohio's children are being served by individuals committed to a safe, supportive, and healthy community.

#### Standards used for different roles in pupil transportation

The standards reviewed in this document are applicable to drivers of pupil transportation vehicles with students on board- including both school buses and school vans

Drivers who are also employed in another capacity for a school must be evaluated in accordance with the regulations that pertain to that other capacity in addition to meeting the requirements that pertain to being a driver. Example: A building custodian is also used as a school bus driver. The requirement for background checks for building custodians is that the checks must be completed each 5 years. The requirement for bus drivers is 6 years. In this case, the individual must follow the shortest cycle which is 5 years. We recommend that the individual be recertified as a bus driver at the same time (i.e. 5 years) so that the same criminal background checks can be used for both positions.

#### Criminal Background Checks for bus and van drivers. (ref. ORC 3327.10, 3319.39 (B)(1), 3319.40)

Ohio Revised Code §3327.10 (J) requires employers to conduct criminal background checks on individuals applying for or employed in a position as a driver of a vehicle used for pupil transportation. Those background checks must be requested prior to the person's hiring, and every six years thereafter.

Furthermore division (G)(2) of section 3327.10 of the revised code requires that the required criminal records check required in division (J) be completed and received by the public or private employer prior to permitting the individual to operate a vehicle used for pupil transportation.

For any individual who is recertifying, the employer shall request only criminal records from the FBI if a state check was completed at initial hire, AND the person presents proof that they have been a resident of this state for the five-year period prior to the date upon which the new criminal records check is due.

In §3327.10 (K) the code stipulates that persons who have been convicted or pled guilty to any offense identified in division (B)(1) of section 3319.39 of the Revised Code shall not be hired or shall be released from employment.

Employers may wish to consider adopting local policy regarding convictions for other offenses NOT included in 3319.39 (B)(1), including what conditions they may wish to implement in the consideration of employment of these individuals.

A second provision in HB 428, effective on September 12 2008, created a new Revised Code Section 3319.40 and requires that school districts suspend employees who have been arrested, summoned, or indicted for an alleged violation of an offense listed in 3319.39 (B)(1) (for non-licensed employees).

A summary of the offenses listed in both of these sections follows the text in this document.

Requirements for when to complete the background checks

Ohio Administrative Code 3301-83-06 and 3301-83-10 establish the cycle of background checks, training and certification requirements for drivers. Background checks must be completed as part of the application process for bus or van driver certificates. No certificate may be applied for without the employer’s certification that the background check has been requested and received by the employer.

List of disqualifying offenses

**For all offenses listed, an applicant cannot be hired or shall be released from employment.**

**For all offenses listed, employers are required to suspend the employee during the pendency of the criminal action. Each district may determine its own policy with regard to continued employment of these individuals during this period.**

<b>Disqualifying offenses as documented in Ohio Administrative Code 3301-83-23</b>			
<b>ORC Section</b>	<b>Notes</b>	<b>Offense</b>	<b>Eligible for Rehabilitation</b>
<b>Sexually oriented offenses</b>			
2907.02		Rape	Non-rehabilitative
2907.03		Sexual Battery	Non-rehabilitative
2907.04		Unlawful Sexual Conduct With a Minor	Non-rehabilitative
2907.05		Gross Sexual Imposition	Non-rehabilitative
2907.06		Sexual Imposition	Non-rehabilitative
2907.07		Importuning	Non-rehabilitative
2907.12		Felonious Sexual Penetration (former section)	Non-rehabilitative
2907.21		Compelling Prostitution	Non-rehabilitative
2907.22		Promoting Prostitution	Non-rehabilitative
2907.23		Procuring	Non-rehabilitative
2907.25		Prostitution; after positive HIV test	Non-rehabilitative
2907.31		Disseminating Matter Harmful to Juveniles.	Non-rehabilitative

<b>Disqualifying offenses as documented in Ohio Administrative Code 3301-83-23</b>			
<b>ORC Section</b>	<b>Notes</b>	<b>Offense</b>	<b>Eligible for Rehabilitation</b>
2907.32		Pandering Obscenity	Non-rehabilitative
2907.321		Pandering Obscenity Involving a Minor	Non-rehabilitative
2907.322		Pandering Sexually Oriented Matter Involving a Minor	Non-rehabilitative
2907.323		Illegal Use of Minor In Nudity-Oriented Material or Performance	Non-rehabilitative
<b>Child related violent offenses</b>			
2905.01		Kidnapping	Non-rehabilitative
2905.02		Abduction	Non-rehabilitative
2905.04		Child Stealing (as it existed prior to July 1, 1996)	Non-rehabilitative
2905.05		Criminal Child Enticement	Non-rehabilitative
2919.22 B		Endangering Children (if division (B)(1), (2), (3) or (4) is violated)	Non-rehabilitative
2919.23		Interference of Custody - if a violation of this statute (R.C. §2919.23) would have been a violation of R.C. §2905.04 (child stealing) before 7/1/96.	Non-rehabilitative
<b>Violent Offenses</b>			
2903.01		Aggravated Murder	Non-rehabilitative
2903.02		Murder	Non-rehabilitative
2903.03		Voluntary Manslaughter	Non-rehabilitative
2903.04		Involuntary Manslaughter	Non-rehabilitative
2903.06	Added July 1, 2012	Vehicular Manslaughter	Non-rehabilitative
2903.08	Added July 1, 2012	Vehicular Manslaughter	Non-rehabilitative
2903.09	Added July 1, 2012	Vehicular Manslaughter	Non-rehabilitative
2909.24	Added July 1, 2012	Terrorism	Non-rehabilitative
<b>Other violence-related offenses</b>			
2903.11		Felonious Assault	AFTER 20 YEARS
2903.12		Aggravated Assault	AFTER 20 YEARS
2911.01		Aggravated Robbery	AFTER 20 YEARS
2911.02		Robbery	AFTER 20 YEARS
2911.11		Aggravated Burglary	AFTER 20 YEARS
2923.161		Improper Discharge Firearm at or into Habitation; School-related Offenses	AFTER 20 YEARS
2919.12		Unlawful Abortion	AFTER 20 YEARS
3716.11		Placing Harmful Objects in Food/Confection	AFTER 20 YEARS
<b>Drug Offenses</b>			
2925.02		Corrupting Another With Drugs	AFTER 10 YEARS
2925.03		Trafficking in Drugs	AFTER 10 YEARS

<b>Disqualifying offenses as documented in Ohio Administrative Code 3301-83-23</b>			
<b>ORC Section</b>	<b>Notes</b>	<b>Offense</b>	<b>Eligible for Rehabilitation</b>
2925.04		Illegal Manufacturing of Drugs or Cultivation of Marihuana	AFTER 10 YEARS
2925.05		Funding of Drug or Marihuana Trafficking	AFTER 10 YEARS
2925.06		Illegal Administration or Distribution of Anabolic Steroids	AFTER 10 YEARS
<b>Non Violent Theft Offense</b>			
2911.12		Burglary	AFTER 10 YEARS
<b>Major Motor Vehicle Offenses</b>			
4511.19	Added July 1, 2012	Operating under the influence	AFTER SIX YEARS
4511.20	Added July 1, 2012	Reckless Operation	AFTER SIX YEARS
4510.11	Added July 1, 2012	Driving under suspension	AFTER SIX YEARS
4510.14	Added July 1, 2012	Driving under OVI suspension	AFTER SIX YEARS
4511.194	Added July 1, 2012	Physical control under influence	AFTER SIX YEARS
<b>Other Offenses</b>			
2903.13		Assault	AFTER 5 YEARS
2903.16		Failing to provide for a functionally impaired person	AFTER 5 YEARS
2903.21		Aggravated Menacing	AFTER 5 YEARS
2903.34		Patient abuse or neglect	AFTER 5 YEARS
2907.08		Voyeurism	AFTER 5 YEARS
2907.09		Public Indecency	AFTER 5 YEARS
2919.22 A		Endangering Children Section A	AFTER 5 YEARS
2919.24		Contributing to unruliness or delinquency of a child	AFTER 5 YEARS
2919.25		Domestic Violence	AFTER 5 YEARS
2923.12		Carrying concealed weapons	AFTER 5 YEARS
2923.13		Having weapons while under disability	AFTER 5 YEARS
2925.11		Possession of controlled substance	AFTER 5 YEARS
<b>Other Motor Vehicle Offenses</b>			
4511.75	Added July 1, 2012	Violation of school bus lights	AFTER ONE YEAR
4511.21.2	Added July 1, 2012	School zone speed limit	AFTER ONE YEAR
4511.62	Added July 1, 2012	Railroad crossing violation	AFTER ONE YEAR
		A conviction of or guilty plea to a violation of any municipal ordinance or law of this state, another state, or the United States that is substantially equivalent to any of the offenses listed above.	

Eligibility for re-employment

As stipulated in sections 3319.39 and 3319.391 of the Revised Code, the department of education has adopted rule that sets rehabilitation standards for those individuals with certain criminal convictions. A specific rule for bus and van drivers (3301-83-23) is in existence and effective on July 1, 2012. Refer to section (C) of the rule for the standards that must be met.