




# OREGON DEPARTMENT OF FISH AND WILDLIFE POLICY

## Human Resources Division

<b>Title:</b>	<b>Driving Record and Criminal History Checks</b>	<b>HR_450_17</b>
<b>Supersedes:</b>	HR_450_17, dated December 1, 2011	
<b>Applicability:</b>	All employees, where not in conflict with a collective bargaining agreement, and applicant finalists, for designated positions	
<b>Reference:</b>	ORS 181.534, 496.121. OAR 125-155-0200 and 635-Division 600.	
<b>Effective Date:</b>	June 15, 2014	<b>Approved:</b> 

### I. PURPOSE

To ensure that employees in specified job assignments are properly licensed, have an acceptable driving and/or criminal history record.

### II. DEFINITIONS

- A. Criminal History Check or CHC: One or more of three processes to check the criminal history of a subject individual: a LEDS Criminal History Check, an Oregon Criminal History Check, a Nationwide Criminal History Check, or any combination thereof.
- B. False Statement: A statement made by an applicant or employee, in association with an activity governed by this policy, that either:
  - 1. Provides the department with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or criminal history (including but not limited to fish or wildlife violation history); or
  - 2. Fails to provide to the department information material, complete and/or accurate to determining his or her criminal history.
- C. Fitness Determination: A preliminary or final determination made by the Human Resources Division Administrator or designee that an applicant or employee is or is not fit to be a department employee in a subject position based on information acquired from the criminal history check process.
- D. Subject Individual: An individual identified in OAR 635-600-0010 who is required to complete a criminal history check pursuant to that rule and from whom the department may require fingerprints for the purpose of conducting a criminal history check because the person:
  - 1. Is employed by or considered for employment with the department; and
  - 2. Is, or will be, working or providing services in a sensitive position:

- a. In which the person has direct access to persons under 18 years of age, elderly persons or persons with disabilities;
  - b. That has personnel or human resources functions as one of the positions primary responsibilities;
  - c. In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;
  - d. That involves the use, possession, issuance, transport, purchase, sale or forfeiture of firearms or munitions, access to firearms or munitions or the training of others in the use or handling of firearms;
  - e. In which the person resides on property managed by the department;
  - f. In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;
  - g. That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;
  - h. That has mailroom duties as a primary duty or job function;
  - i. In which the person has responsibility for auditing the department;
  - j. In which the person has access to Social Security numbers, dates of birth or criminal history background information of employees or members of the public; or
  - k. In which the person has access to tax or financial information about individuals or business entities.
- E. Subject Position: A position consisting of duties and responsibilities which requires a current driver license and an acceptable driving record, and/or which is designated as sensitive and subject to a criminal history check on applicants or employees.

### III. POLICY

- A. Driving Record Checks - Operators of State Vehicles
  - 1. All operators of state vehicles and personal vehicles used on the job shall hold a valid driver license and maintain an acceptable driving record. An acceptable driving record meets the guidelines detailed in this policy and in Attachment A.
  - 2. Driving record checks shall be required for:
    - a. Applicants for positions where the operation of a state vehicle is a requirement of the position, prior to making a job offer.

- b. Employees whose job duties require the operation of state vehicle. Record checks shall generally be conducted annually, and also as required at the discretion of the Human Resources Administrator.

Human Resources will conduct Oregon driving record checks on all finalists. Before making an offer of employment, the hiring manager shall contact the HR Records Specialist by e-mail to request the Oregon driving record on all finalists. The manager shall note the Oregon Driver's License (ODL) number(s) in the e-mail and provide a copy of the ODFW Driving Certification form (Attachment A) completed by the applicant. Applicants from states other than Oregon shall present a current certified court print driving record at the time of interview for the state the applicant resides in, as required pursuant to the recruiting announcement. The hiring manager shall send this out of state record to HR for approval.

3. Acceptable Driving Record Guidelines.

- a. In general, the following kinds of driving records are acceptable:
  - No major traffic offense in the last 24 months. This includes reckless driving, driving under the influence of intoxicants, failing to perform the duties of a driver, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer, and others;
  - No felony revocation of driving privileges or felony or misdemeanor driver license suspension within the last 24 months;
  - No more than three moving traffic violations in the last 12 months;
  - No careless driving conviction in the last 12 months; or
  - No Class A moving traffic infraction in the last 12 months. Class A moving traffic infractions include, but are not limited to, failure to obey or yield to a traffic patrol member, certain violations of speed limits, speed racing on a highway, failure to stop for bus safety lights, and refusing to obey a flagger.
- b. Application of these guidelines may vary from case-to-case, depending upon the relevance of the infraction to the position.

4. If the driving record is not acceptable:

- a. If the operation of a state vehicle is an essential function of the position, an applicant shall be denied employment. An employee may be subject to the removal or disciplinary process up to and including dismissal as provided by the collective bargaining agreement or HR Policy 470\_02, Management Service Dismissal or Removal.
- b. If the operation of a state vehicle is a requirement of the position but not an essential function, an applicant shall be denied employment. An employee may be assigned other duties or may be required to provide an acceptable alternate means of transportation.

5. Disciplinary action may be taken against employees whose driving is unsafe, discourteous or results in an accident or citation. Such disciplinary action may include:
  - Suspension or revocation of the use of a state vehicles;
  - Formal disciplinary action up to and including dismissal from state service.

While citizen complaints can be relevant indicators of deficient driving, they should not be the basis of disciplinary action until their validity has been determined.

#### B. Criminal History Checks

The Human Resources Division Administrator, in consultation with the appropriate Division Administrator or Region Manager, shall designate certain positions as sensitive and thereby subject to criminal history checks. The department will conduct criminal history checks, including fish and wildlife violation checks, on individuals who are considered for employment and/or are employed with the department in subject positions. Criminal history checks shall also be conducted by HR annually on subject individuals in the first several months of each new calendar year, until such time as the sensitive duties are no longer assigned

1. Individuals who are considered for employment and/or are employed with the department in subject positions shall:
  - a. Complete, sign and submit to the department the ODFW Criminal History Check Form (Attachment B), and, if requested, a fingerprint card within ten (10) days of receiving the form. The department may extend the deadline for good cause.
  - b. Within a reasonable period of time as established by the department, disclose additional information as requested by the department in order to resolve any issues hindering the completion of a criminal history check.
2. When the department determines that a criminal record check is needed, in addition to checking an applicant or employee's fish or wildlife violation record, the department may request or conduct a LEADS Criminal History Check, an Oregon Criminal History Check, a Nationwide Criminal History Check, or any combination thereof.
3. An individual may be approved on a preliminary basis as fit to serve in a subject position if the Human Resources Division Administrator:
  - a. Has no reason to believe that the individual has made a false statement; and,
  - b. Determines that, after evaluating all available information, hiring or appointing the individual on a preliminary basis does not pose any risk of harm to the department, its client entities, the State, or members of the public.
4. Managers are responsible to ensure that a preliminary fitness determination is completed and approved prior to offering appointment to individuals who are applicants for positions which require a criminal history check and prior to assigning the employee sensitive duties.
5. In instances when an appointment is made prior to a final fitness determination, the appointment remains contingent on a final fitness determination.

4. If a subject individual is either approved or denied on the basis of a preliminary fitness determination, the department thereafter shall conduct a final fitness determination.
5. In making a final fitness determination about a subject individual, the department shall consider the factors in subsection a–f below in relation to information provided by the subject individual, any LEADS report or criminal offender information obtained through a criminal history check, and any false statement made by the subject individual. To assist in considering these factors, the Human Resources Division Administrator may obtain other information deemed relevant from the subject individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other relevant information from the subject individual, the department may request written materials and/or may meet with the subject individual. The department will use the collected information in considering:
  - a. Whether the subject individual has been arrested, pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime;
  - b. The nature of any crime;
  - c. The facts that support the arrest, conviction, finding of guilty except for insanity, or pending indictment;
  - d. The facts that indicate the subject individual made a false statement;
  - e. The relevance, if any, of a crime or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and
  - f. The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the fitness determination is being made, including, but not limited to, the following:
    - i. The passage of time since the commission or alleged commission of a crime;
    - ii. The age of the subject individual at the time of the commission or alleged commission of a crime;
    - iii. The likelihood of a repetition of offenses or of the commission of another crime;
    - iv. The subsequent commission of another crime;
    - v. Whether a conviction has been set aside or pardoned, and the legal effect of setting aside the conviction or of a pardon;
    - vi. A recommendation of an employer.
6. If the final fitness determination is that the individual is unfit for the subject position:
  - a. The applicant shall be denied the position;

- b. A trial service employee shall be removed from trial service;
  - c. An employee applying for a different position shall be denied promotion, demotion or transfer to a subject position.
9. Criminal history checks shall also be conducted as required at the discretion of the Human Resources Division Administrator. If an employee in his/her current position is determined to be unfit, he/she may be subject to the dismissal process as provided by the collective bargaining agreement, or HR Policy 470\_02, Management Service Dismissal or Removal.

#### IV. POLICY CLARIFICATION

- A. Under authority granted in ORS 496.121, the Department of Fish and Wildlife has the authority to conduct criminal history background checks at any time without notice.
- B. The fact that the department approves a subject individual as fit does not guarantee the individual a continued position as a department employee.
- C. The department shall verify that a driver meets its standards whenever the department learns of the driver's involvement in an accident, traffic citation, or a major traffic offense, and may verify a driver's qualifications at any other time.
- D. Any individual who knowingly provides false, inaccurate or incomplete information for the driving record or criminal history check shall be subject to denial of employment or disciplinary action up to and including dismissal.
- E. Except for positions which require the use, possession, issuance, transport, purchase, sale or forfeiture of firearms or munitions, access to firearms or munitions or the training of others in the use or handling of firearms, the department will not require a criminal records check on any current represented employee in his or her current position if the requirement was not in place when the employee was appointed to the position.
- F. If the performance of sensitive duties is a convenience for the department, but not an essential function of the position, and the individual doesn't pass a background check:
  - 1. The applicant will be denied the position;
  - 2. The Human Resources Division Administrator in conjunction with the appropriate Region Manager or Division Administrator shall determine whether the employee will be assigned duties that do not require the performance of sensitive duties.

Attachment A ODFW Driving Certification Form

Attachment B Criminal History Background Check Authorization Form for Required Firearm Use



## ODFW DRIVING CERTIFICATION

All operators of state vehicles and personal vehicles used on the job shall hold a valid driver license and maintain an acceptable driving record per ODFW HR Policy 450\_17.

An acceptable driving record meets the guidelines detailed below:

- No major traffic offense in the last 24 months. This includes reckless driving, driving under the influence of intoxicants, failing to perform the duties of a driver, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer, and others;
- No felony revocation of driving privileges or felony or misdemeanor driver license suspension within the last 24 months;
- No more than three moving traffic violations in the last 12 months;
- No careless driving conviction in the last 12 months; or
- No Class A moving traffic infraction in the last 12 months. Class A moving traffic infractions include, but are not limited to, failure to obey or yield to a traffic patrol member, certain violations of speed limits, speed racing on a highway, failure to stop for bus safety lights, and refusing to obey a flagger.

Application of these guidelines may vary from case-to-case, depending upon the relevance of the infraction to the position.

**ODFW policy HR\_410\_02 Code of Conduct** states: Adherence to federal and state laws, rules, regulations and policies is important. Violations that adversely affect ODFW, its credibility or its image, cannot be overlooked. New employees or current employees must report to their supervisor any convictions (including pleas of no contest), traffic/driving violation which could affect driving privileges and/or violate ODFW's acceptable driving records guidelines, or pending legal issues for violations of laws no later than five calendar days after the event.

I certify I currently hold an acceptable driving record based on the guidelines above.

\_\_\_\_\_ Initials

I certify my driving record is **not** acceptable based on the guidelines above and I am aware my supervisor will be contacting Human Resources regarding my employment options.

\_\_\_\_\_ Initials

*My signature below confirms this information is true, complete, and accurate. I understand that submitting false information on this self-certification form could result in denial of employment and/or disciplinary action against me, up to and including termination from state employment.*

Driver License Number:	State of Issue:
Work Location:	Printed Name:
Date:	Signature:

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Attachment B



**OREGON DEPARTMENT OF FISH AND WILDLIFE**  
**Criminal History Check Form**

Pursuant to ODFW Policy HR\_450\_17, \_\_\_\_\_ is subject to a Criminal History Background Check. (Print: First Name, Middle Initial, Last Name)

Cost Center #: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
**Supervisor:** (Print Name) / (Signature) **Date**

ODFW has authority to require LEDS based and fingerprint based criminal history checks on applicants and employees, contractors, vendors and volunteers who are or will be working or providing services in specific positions to determine fitness for the position, pursuant to OAR 635-600-0010. Any individual who knowingly provides false, inaccurate or incomplete information for the criminal history background check shall be subject to denial of employment or disciplinary action up to and including dismissal. A criminal record does not necessarily preclude employment with the Department of Fish and Wildlife.

I \_\_\_\_\_ give my permission to the Department of Fish and Wildlife to conduct a criminal history check on me.  
(Print—full legal name: First Name, Middle Name, Last Name)  
- (Signature at bottom of form) -

**Driver License or Identification Card Number:** \_\_\_\_\_

**Gender:**  Male  Female **Ethnicity:** A  B  I  W

**Date of Birth:** Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ **Social Security Number:** \_\_\_\_\_

**Current Address:** \_\_\_\_\_ (Street Address)  
\_\_\_\_\_ (City, State, ZIP)

**List all states in which you have lived, worked, or attended school since age 18:**


**List all other names that you have used including nicknames, aliases, and maiden name(s):**

Last, First, Middle	
Last, First, Middle	
Last, First, Middle	
Last, First, Middle	
Last, First, Middle	



**CONFIDENTIAL**

**Attachment B** (continued)

**Traffic / Arrest / Violation Records:**

**Yes**  **No**

Have you **ever** had a Fish or Wildlife violation/citation/fine?  
This includes **any** case that was dismissed, or the fine was paid, regardless of how long ago. (Examples: fishing/hunting without a license, exceeding catch limit, out of season, failure to tag, etc.).

**Yes**  **No**

Are there any traffic, criminal and/or other types of charges pending against you at this time?

**Yes**  **No**

Have you been cited or charged for any driving-related violations within the past 5 years?

**Yes**  **No**

Have you **ever** been arrested, cited, or charged for **any** violation of the law?  
This includes cases that were dismissed, charges dropped, or found not guilty (excluding driving-related violations beyond the past 5 years).

**If YES to any of the above**, provide the information in the spaces below.

(Use remaining space or an additional page if you wish to provide any comments or explanations).

Nature of the Crime	Date and Place	F&W Violation, Misdemeanor, or Felony	Final Disposition or Outcome

**COMMENTS:**

My signature on this form certifies that the all information I have provided on this form is materially true, accurate and complete in response to the information requested, and that I have not failed to provide the department information material to determining my criminal history.

**Date:**

**Signature:**

A photocopy or FAX reproduction of this authorization and release form will be valid as an original hereof, even though said photocopy does not contain an original writing of my signature.