

# **Standards for Employment of Individuals in School Transportation Positions with Criminal Convictions**

Provided by the Pupil Transportation Office, Ohio Department of Education  
July 2008

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 staff. 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).

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 pupil transportation vehicle operator. 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. Other transportation employees, including transportation office staff, mechanics, bus aides and monitors must be evaluated in accordance with the standards for criminal background checks that are used for other certified, licensed, or uncertified employees in schools.

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, 3319.31 (C), 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.

In §3327.10 (K) the code stipulates that persons who have been convicted or pled guilty to any offense identified in division (C) of section 3319.31 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 3319.31 (C), including what conditions they may wish to implement in the consideration of employment of these individuals. For a model list of additional convictions and conditions for employment districts may wish to review the rules adopted by the ODE Office of Professional Conduct.

A second provision in HB 428, effective on September 12 2008, creates 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 3319.31 (C) (for licensed employees) or 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.

The remainder of this document contains the list of offenses identified in revised code that districts and employers must consider with regard to the employment status of pupil transportation drivers.

**For offenses that show UNEMPLOYABLE in the first column below, an applicant cannot be hired or shall be released from employment.**

**For offenses that show SUSPEND in the second column below, districts 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.**

**At the resolution of the criminal action, if the individual is convicted and the offense is also listed as unemployable in column 1, the individual must be released from employment.**

**If the offense is NOT listed as unemployable in column 1, the employer shall make their own determination as to continued employability of the individual.**

<b>RC 3319.31 (C)</b>	<b>RC 3319.39 (B)(1)</b>		
<b>May not be employed if convicted (per RC 3327.10 (K))</b>	<b>Must be suspended if arrested, summoned, or indicted (per RC 3319.40)</b>	<b>ORC Section</b>	<b>Offense</b>
unemployable	suspend	2903.01	Aggravated Murder
unemployable	suspend	2903.02	Murder
Unemployable	Suspend	2903.03	Voluntary Manslaughter
Unemployable	Suspend	2903.04	Involuntary Manslaughter
Unemployable		2903.041	Reckless Homicide
Unemployable	Suspend	2903.11	Felonious Assault
Unemployable	Suspend	2903.12	Aggravated Assault
	Suspend	2903.13	Assault
Unemployable		2903.15	Permitting Child Abuse
	Suspend	2903.16	Failing to provide for a functionally impaired person
	Suspend	2903.21	Aggravated Menacing
	Suspend	2903.34	Patient abuse or neglect
Unemployable	suspend	2905.01	Kidnapping
Unemployable	suspend	2905.02	Abduction
Unemployable	suspend	2905.04	Child Stealing (as it existed prior to July 1, 1996)

<b>RC 3319.31 (C)</b>	<b>RC 3319.39 (B)(1)</b>		
<b>May not be employed if convicted (per RC 3327.10 (K))</b>	<b>Must be suspended if arrested, summoned, or indicted (per RC 3319.40)</b>	<b>ORC Section</b>	<b>Offense</b>
Unemployable	suspend	2905.05	Criminal Child Enticement
Unemployable		2905.11	Extortion
Unemployable	suspend	2907.02	Rape
Unemployable	suspend	2907.03	Sexual Battery
Unemployable	suspend	2907.04	Unlawful Sexual Conduct With a Minor
Unemployable	suspend	2907.05	Gross Sexual Imposition
Unemployable	suspend	2907.06	Sexual Imposition
Unemployable	suspend	2907.07	Importuning
	suspend	2907.08	Voyeurism
	suspend	2907.09	Public Indecency
Unemployable	suspend	2907.12	Felonious Sexual Penetration (former section)
Unemployable	suspend	2907.21	Compelling Prostitution
Unemployable	suspend	2907.22	Promoting Prostitution
Unemployable	suspend	2907.23	Procuring
Unemployable		2907.24	Soliciting; after positive HIV test
Unemployable		2907.241	Loitering to Engage in Prostitution; Soliciting after positive HIV test
Unemployable	suspend	2907.25	Prostitution; after positive HIV test
Unemployable	suspend	2907.31	Disseminating Matter Harmful to Juveniles.
Unemployable		2907.311	Displaying Matter Harmful to Juveniles
Unemployable	suspend	2907.32	Pandering Obscenity
Unemployable	suspend	2907.321	Pandering Obscenity Involving a Minor
Unemployable	suspend	2907.322	Pandering Sexually Oriented Matter Involving a Minor
Unemployable	suspend	2907.323	Illegal Use of Minor In Nudity-Oriented Material or Performance
Unemployable		2907.33	Deception to Obtain Matter Harmful to Juveniles
Unemployable		2907.34	Compelling Acceptance of Objectionable Materials
Unemployable		2909.02	Aggravated Arson
Unemployable		2909.22	Soliciting or Providing Support for Acts of Terrorism
Unemployable		2909.23	Making Terroristic Threat
Unemployable		2909.24	Terrorism
Unemployable	suspend	2911.01	Aggravated Robbery
Unemployable	suspend	2911.02	Robbery
Unemployable	suspend	2911.11	Aggravated Burglary
Unemployable	suspend	2911.12	Burglary
Unemployable		2913.44	Personating an Officer
Unemployable		2917.01	Inciting to Violence
Unemployable		2917.02	Aggravated Riot
Unemployable		2917.03	Riot

<b>RC 3319.31 (C)</b>	<b>RC 3319.39 (B)(1)</b>		
<b>May not be employed if convicted (per RC 3327.10 (K))</b>	<b>Must be suspended if arrested, summoned, or indicted (per RC 3319.40)</b>	<b>ORC Section</b>	<b>Offense</b>
Unemployable		2917.31	Inducing Panic
Unemployable		2917.33	Unlawful Possession or Use of Hoax Weapon of Mass Destruction
Unemployable	suspend	2919.12	Unlawful Abortion
Unemployable		2919.121	Performing or Inducing Unlawful Abortion Upon a Minor
Unemployable		2919.13	Abortion Manslaughter
Unemployable	suspend	2919.22	Endangering Children (if division (B)(1), (2), (3) or (4) is violated)
Unemployable	suspend	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.
	suspend	2919.24	Contributing to unruliness or delinquency of a child
	suspend	2919.25	Domestic Violence
Unemployable		2921.02	Bribery
Unemployable		2921.03	Intimidation
Unemployable		2921.04	Intimidation of Attorney, Victim or Witness in Criminal Case
Unemployable		2921.05	Retaliation
Unemployable		2921.11	Perjury
Unemployable		2921.34	Escape
Unemployable		2921.41	Theft in Office
	suspend	2923.12	Carrying concealed weapons
Unemployable		2923.122	Illegal Conveyance or Possession of Deadly Weapon or Dangerous Ordinance or Illegal Possession of Object Indistinguishable from Firearm in School Safety Zone
Unemployable		2923.123	Illegal Conveyance of Deadly Weapon or Dangerous Ordinance into Courthouse; Illegal Possession or Control in Courthouse
	suspend	2923.13	Having weapons while under disability
Unemployable	suspend	2923.161	Improper Discharge Firearm at or into Habitation; School-related Offenses
Unemployable		2923.17	Unlawful Possession of Dangerous Ordinance; Illegally Manufacturing or Processing Explosives
Unemployable		2923.21	Improperly Furnishing Weapons to a Minor
Unemployable	suspend	2925.02	Corrupting Another With Drugs
Unemployable	suspend	2925.03	Trafficking in Drugs
Unemployable	suspend	2925.04	Illegal Manufacturing of Drugs or Cultivation of Marihuana
Unemployable		2925.041	Illegal Assembly or Possession of Chemicals for the

<b>RC 3319.31 (C)</b>	<b>RC 3319.39 (B)(1)</b>		
<b>May not be employed if convicted (per RC 3327.10 (K))</b>	<b>Must be suspended if arrested, summoned, or indicted (per RC 3319.40)</b>	<b>ORC Section</b>	<b>Offense</b>
			Manufacture of Drugs
Unemployable	suspend	2925.05	Funding of Drug or Marihuana Trafficking
Unemployable	suspend	2925.06	Illegal Administration or Distribution of Anabolic Steroids
	suspend	2925.11	Possession of controlled substance
Unemployable		2925.13	Permitting Drug Abuse
Unemployable		2925.22	Deception to Obtain a Dangerous Drug
Unemployable		2925.23	Illegal Possession of Drug Documents
Unemployable		2925.24	Tampering With Drugs
Unemployable		2925.32	Trafficking in Harmful Intoxicants; Improperly Dispensing or Distributing Nitrous Oxide
Unemployable		2925.36	Illegal Dispensing of Drug Samples
Unemployable		2925.37	Possession of Counterfeit Controlled Substances
Unemployable		2927.24	Contaminating Substance for Human Consumption or Use or Contamination with Hazardous Chemical, Biological, or radioactive Substance; Spreading false report
Unemployable	suspend	3716.11	Placing Harmful Objects in Food/Confection
unemployable			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.