

NASDTEC Clearinghouse

Schools are charged with the herculean responsibility of ensuring a safe and secure learning environment for students. A large proportion of protecting students resides with hiring the right personnel suitable to work with or around minors on school campuses. As part of a district's usual screening process, the standard background check only reports actual arrests, but does not reveal administrative actions taken against a certificated employee. Many of these adverse actions do not result in an arrest or conviction, yet, these actions often could or should disqualify an applicant from employment. Therefore, to assist with the screening process, ASCIP members now have access to another screening tool at no cost – the National Association of State Directors of Teacher Education and Certification Educator Identification Clearinghouse, or simply, the **NASDTEC Clearinghouse**.

NASDTEC created this database to assist in protecting students from potential employees who may have a history of adverse actions and travel across state lines to attempt to continue working around students in an educational agency. The Clearinghouse contains information about teacher education and certificated personnel in all 50 states. The Clearinghouse provides a mechanism for licensing agencies to exchange names of educators whose certificates, licenses, or similar credentials, have been denied, revoked, suspended, surrendered, or otherwise adversely affected.

This exchange of information is intended to serve as an alert or red flag of potential problems only and envisioned to be used as a supplement to the current background checks. Members will have read-only access to the Clearinghouse.

In order to control the process, flow, and confidentiality of the information accessible through the Clearinghouse, ASCIP requires each participating member to designate one senior staff member to be the contact for this program. Please indicate below the name, job title, and telephone number of this designated contact for your district and return to Nancy Lopez, lopez@ascip.org.

District: _____

Name: _____

Title: _____

Phone: _____

Additionally, the District will need to complete a License Agreement with NASDTEC to access the program. A sample agreement is attached.

LICENSE AGREEMENT FOR PARTICIPATION IN THE NATIONAL ASSOCIATION
OF STATE DIRECTORS OF TEACHER EDUCATION AND CERTIFICATION'S
CLEARINGHOUSE ACCESS PROGRAM

THIS LICENSE AGREEMENT ("Agreement") is made by and between the National Association of State Directors of Teacher Education and Certification ("NASDTEC"), a non-profit corporation organized under the laws of Utah, and _____ ("Licensee"), a local educational agency legally constituted within a Member Jurisdiction of NASDTEC for either administrative control or direction of, or to perform a service function for, public or private elementary or secondary schools ("LEA").

RECITALS

WHEREAS, NASDTEC, on behalf of its Member Jurisdictions, operates the National Identification Clearinghouse ("Clearinghouse"), an electronic repository of adverse actions imposed against educators' certification and/or licenses by Member Jurisdictions including all 50 states, U.S. Territories and certain Canadian provinces; and

WHEREAS, the Licensee desires to have limited access to the Clearinghouse in furtherance of its obligation to conduct background checks on prospective employees with due diligence.

NOW THEREFORE, in consideration of the promises and covenants contained herein, the parties agree, intending to be legally bound, as follows:

LIMITED LICENSE GRANT

1. NASDTEC grants to Licensee a limited, non-exclusive, non-assignable license to access the Clearinghouse as described in this Agreement and in the Licensee Clearinghouse Handbook ("Handbook") and Licensee Acknowledgement of Terms and Conditions of Participation in the Clearinghouse ("Acknowledgement")("Appendix A"), which is incorporated herein by reference.
2. Any use, distribution or access to the Clearinghouse not expressly authorized by this Agreement is expressly prohibited, including but not limited to the following prohibitions:
 - a. Licensee is expressly prohibited from accessing, using or distributing the Clearinghouse for any commercial purpose;
 - b. Licensee is expressly prohibited from allowing unauthorized viewing or access to the Clearinghouse or Clearinghouse data,

- including any third party or personnel not directly involved in the selection and hiring process for the Licensee;
- c. Licensee is expressly prohibited from using the Clearinghouse data for any purpose other than the intended purpose described within this Agreement;
 - d. Licensee will take all reasonable measures to safeguard the confidentiality of the downloaded or accessed Clearinghouse data; and
 - e. Licensee is expressly prohibited from transferring, assigning or sublicensing access to the Clearinghouse to any other party.

RELEASE OF CLEARINGHOUSE DATA

In the event that laws and regulations related to freedom of information requests mandate release of Clearinghouse data that has been accessed or compiled by the Licensee, Licensee agrees to redact prior to release all CERT_IDs and date of birth data except year of birth. Licensee also agrees to notify NASDTEC immediately of the third-party request for access prior to release.

LICENSE FEE AND ASSOCIATE MEMBERSHIP

In consideration of the license for limited access to the Clearinghouse granted hereunder and during the initial term of this Agreement, Licensee agrees to pay to NASDTEC an annual fee in the amount of [REDACTED] being payable within 30 days of the effective date of this Agreement. NASDTEC will provide written notice to Licensee of the fee for any renewal term prior to the expiration of the initial or preceding term.

A prerequisite for Licensee participation in the Clearinghouse Access Program is subscribing to NASDTEC as an Associate Member. An ongoing requirement for Licensee access is to remain in good standing as an Associate Member.

ACCESS TO CLEARINGHOUSE

Licensee will have access to the Clearinghouse for the sole purpose of verifying that an applicant for employment or a prospective employee has not been reported to the Clearinghouse as having had a public adverse action taken against their educator certification and/or license or having been denied licensure.

AUTHORIZED USE OF CLEARINGHOUSE

1. All adverse actions against an educator's certification, license and/or employment eligibility submitted by a Member Jurisdiction to the Clearinghouse are public final decisions made in accordance with the submitting Member Jurisdiction's laws and regulations.
2. Licensee recognizes that the grounds for discipline against an educator or denials of certification for cause vary between each Member Jurisdiction and that not all of the grounds should be or are employment disqualifications.
3. Licensee understands that the information submitted to the Clearinghouse by Member Jurisdictions concerning any individual is intended only to serve as an *alert* to other jurisdictions and Licensees and that no employment action should be taken solely on the existence of a record in the Clearinghouse.
4. Prior to making any employment decision based in whole or in part on data revealed in the Clearinghouse verification, the Licensee must confirm the action taken against the educator.
5. Should Licensee become aware of any unauthorized access or use of the Clearinghouse or the data contained therein, Licensee shall immediately notify NASDTEC and use all reasonable efforts to notify the violator that its access or use is unauthorized.

TERM OF AGREEMENT

This License Agreement for limited access to the Clearinghouse is effective upon the date of execution by both the Licensee and NASDTEC and shall extend for a period of one-year thereafter. The Agreement may be renewed for additional one-year periods by mutual agreement upon a written request for extension to NASDTEC prior to the expiration of the initial or subsequent licensee period.

TERMINATION

1. Either NASDTEC or the Licensee may terminate this Agreement without cause with 30 days written notice to the other party. In the event that there is a termination without cause, the Licensee is entitled only to a pro-rata refund of the license fee.

2. NASDTEC may terminate immediately Licensee's access to the Clearinghouse by written notice should the Licensee breach the terms and conditions contained in this Agreement, the Licensee Handbook or the Licensee Acknowledgement. In the event of a termination for cause, the Licensee is not entitled to a refund of the license fee.

MUTUAL REPRESENTATIONS

Both NASDTEC and Licensee represent and warrant: that they have the legal authority to enter into this License Agreement; that this License Agreement will not conflict with any other agreement to which they are a party or a law or regulation by which they are bound; and that this License Agreement, when executed, will constitute a binding obligation.

DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

1. The data contained in the Clearinghouse is provided by the Member Jurisdictions, which make every effort to ensure that the data submitted is complete and free from inaccuracies or omissions in accordance with respective state laws and regulations.
2. Although the information found in the Clearinghouse is believed to be reliable, no warranty, expressed or implied, is made by the Member Jurisdictions or NASDTEC regarding the accuracy, adequacy, completeness, legality, reliability, or usefulness of any information, either isolated or in the aggregate. The information is provided "as is". All warranties of any kind, express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, freedom from contamination by computer viruses, and non-infringement of proprietary rights, are disclaimed.
3. Member Jurisdictions and NASDTEC expressly disclaim any and all warranties, written or oral, express or implied, including without limitation, all warranties of fitness for a particular purpose.
4. Any errors or omissions discovered by Licensee should be reported immediately to NASDTEC.
5. Licensee understands that the entire and exclusive liability and remedy for breach of this Agreement is limited to cancellation of the license and a pro-rata refund of the license fee.

INDEMNITY

Licensee agrees to defend, indemnify and hold NASDTEC and all Member Jurisdictions harmless against all costs, expenses and losses incurred through claims of third parties against NASDTEC for claims involving Licensee's access or use of the Clearinghouse or the data contained therein unless otherwise prohibited by the laws and regulations governing the Licensee.

SEVERABILITY

If any term, clause, or provision herein is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from this Agreement.

DISPUTE RESOLUTION

In the event of any dispute, claim, question, or disagreement arising from or relating to this agreement, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of 60 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules unless otherwise prohibited by the laws and regulations governing Licensee.

MISCELLANEOUS TERMS

1. All notices and other communications required or permitted under this Agreement shall be in writing and will be deemed to have been duly given if delivered in person, sent by overnight delivery service, postage prepaid, or delivered electronically or by facsimile to the Executive Director of NASDTEC or to the signatory for Licensee.
2. Nothing contained in this Agreement will create any association, partnership or joint venture between NASDTEC and Licensee.

3. The terms and conditions and protocols contained in the Licensee Handbook and Acknowledgement are incorporated herein by reference.
4. Neither NASDTEC nor Licensee will be considered to be in breach or default under this Agreement as a result of any causes or conditions that are beyond either's reasonable control. If any force majeure event occurs, the affected party will give prompt written notice to the other party and will use reasonable efforts to minimize the impact of the event.

IN WITNESS WHEREOF, NASDTEC and Licensee have executed this License Agreement.

For NASDTEC:

For LICENSEE:

Name:

Name:

Title:

Title:

Address:

Address:

Date:

Date:

SAMPLE ONLY

**LEA AND NATIONAL EDUCATION CERTIFICATION
ORGANIZATIONS ACKNOWLEDGMENT OF THE TERMS AND
CONDITIONS OF PARTICIPATION IN THE NASDTEC EDUCATOR
IDENTIFICATION CLEARINGHOUSE**

WHEREAS, the National Association of State Directors of Teacher Education and Certification (NASDTEC), its Member Jurisdictions and authorized local educational agencies (LEA) and National Education Certification Organizations (collectively the "Parties") share the belief that all students are entitled to have educators who are held to high ethical and professional standards; and

WHEREAS, the Parties recognize that in an increasingly mobile society, more educators are both pursuing certification/licensure in more than one state and seeking employment opportunities across state boundaries; and

WHEREAS, the Parties acknowledge that increased mobility presents additional challenges to ensuring the fitness of all educators; and

WHEREAS, NASDTEC's Educator Identification Clearinghouse (Clearinghouse) provides a cooperative mechanism for the exchange of names of educators whose certification/licensure have been adversely acted upon; and

WHEREAS, NASDTEC and the Parties recognize that participation in the Clearinghouse allows for the facilitation of educator mobility while providing an invaluable tool to alert Member Jurisdictions, LEAs and National Education Certification Organizations that an educator certificated/licensed or seeking to be certificated/licensed in their jurisdiction or seeking employment in an LEA or national certification may have been the subject of public discipline in another jurisdiction; and

WHEREAS, LEAs and National Education Certification Organizations that wish to participate in the Clearinghouse under the NASDTEC Constitution and Bylaws assent to the terms and conditions delineated below and in the NASDTEC Clearinghouse Handbook and License Agreement by signature to this Acknowledgement.

Terms and Conditions:

The Clearinghouse Handbook is a detailed guide to effective and full participation in the Clearinghouse. It sets forth the obligations and rights of Member Jurisdictions and authorized LEAs and National Education

Certification Organizations that elect to participate in the Clearinghouse. The terms and conditions set forth below reiterate some, but not all, of the terms and conditions found in the Handbook. This Acknowledgement incorporates by reference all definitions, protocols and terms and conditions set forth in the Clearinghouse Handbook.

1. Member Jurisdiction Sovereignty

Participation in the Clearinghouse is not intended to alter, amend or regulate individual Member Jurisdiction's laws or regulations governing the certification, licensure and/or discipline of educators. Similarly, participation by authorized LEAs and National Education Certification Organizations is not intended to alter, amend or regulate employment policies or practices or any laws or rules regulating employment practices.

2. Intended Use of Clearinghouse Records

The Parties understand that the information submitted to the Clearinghouse concerning any individual is intended only to serve as an *alert* to other jurisdictions, authorized LEAs and National Education Certification Organizations and that no employment or certification action should be taken solely on the existence of a record in the Clearinghouse.

3. LEA and National Education Certification Organizations Access to Clearinghouse

NASDTEC may enter into a license agreement for limited access to the Clearinghouse with LEAs legally constituted within a Member Jurisdiction of NASDTEC for either administrative control or direction of, or to perform a service function for, public or private elementary or secondary schools and with National Education Certification Organizations, which are recognized by Member Jurisdictions as a bona fide certification granting organization either in a specific content area or based on national standards. LEAs' and National Education Certification Organizations' access to personal identifiable information will be limited to the last four digits of the CERT_ID and only the year of birth. Authorized LEAs and National Education Certification Organizations will be subject to the same terms and conditions related to intended use of Clearinghouse records, Clearinghouse operations and training, Clearinghouse access and security and release of Clearinghouse records set forth in this Acknowledgement as well as other terms and conditions outlined in the Clearinghouse Handbook and the License Agreement.

4. Clearinghouse Operations and Training
 - a. Each authorized LEA and National Education Certification Organization shall designate a person who shall be responsible for Clearinghouse operations and shall serve as the Clearinghouse point of contact.
 - b. Each authorized LEA and National Education Certification Organization shall notify NASDTEC promptly when there is a change in the Clearinghouse designee(s).
 - c. Each authorized LEA and National Education Certification Organization shall ensure that the Clearinghouse designee and all other pertinent personnel who have access to the Clearinghouse shall have read the Clearinghouse Manual and participated in any Clearinghouse training provided by NASDTEC.
5. Clearinghouse Access and Security
 - a. Each authorized LEA and National Education Certification Organization shall identify the individual(s) that shall have read only access to the Clearinghouse.
 - b. Each individual with access to the Clearinghouse shall be issued a unique password by NASDTEC and shall agree not to entrust the password to any other individual.
 - c. The Member Jurisdiction shall notify NASDTEC promptly when personnel with access to the Clearinghouse changes so that inactive access can be removed.
6. Timely Submission of Records
 - a. Each Member Jurisdiction agrees to enter into the Clearinghouse the names of any individual whose certificates, licenses or similar credentials authorizing them to engage in providing educational services to students have been revoked, suspended, surrendered or otherwise adversely acted upon including public reprovals or reprimands and denials for cause.
 - b. Each authorized Member Jurisdiction agrees to use best efforts to enter the names of the individuals identified in subsection 6(a) above within 30 days of the effective date of the adverse action.
 - c. The Parties understand that the information provided to the Clearinghouse reflects final and public adverse actions in accordance with the laws and regulations of the submitting jurisdiction.
7. Editing and Deletion of Records

Only Member Jurisdictions shall have editing privileges to correct typographical or incorrect entries or request deletion of records submitted in error or subsequently invalidated.

8. Release of Clearinghouse Records to Third-Parties

In the event that laws and regulations related to freedom of information requests mandate release of Clearinghouse data that has been submitted by another jurisdiction, the Parties agree to redact prior to release all CERT_IDs and date of birth data except year of birth. The Parties also agree to notify NASDTEC immediately when a request for release of Clearinghouse records is received.

9. Best Practices for Cross-Referencing Alerts

- a. The purpose of cross-referencing the educator records in the Clearinghouse is two-fold: (i) a check for adverse actions against an individual who is applying for employment or national certification/licensure; and (ii) a notification of adverse action against current employees and/or certificate/license holders issued by an authorized National Education Certification Organization.
- b. The recommended protocol is that authorized LEAs and National Education Certification Organizations: (i) download the discrete monthly NASDTEC file on a date certain each month to be run against current employees and certificate/license holders and (ii) amass all downloads in a table reflecting the total NASDTEC database, against which all applicants for employment certification/licensure can be cross-referenced.
- c. NASDTEC also recommends that the match be made on both a perfect match (CERT_ID and DOB) where possible as well as a near match (i.e. CERT_ID or DOB and Name).

10. Data Validation

Each Member Jurisdiction is requested to conduct an annual audit to confirm the validity of the records submitted to the Clearinghouse.

11. Disclaimer of Warranties

The accuracy of information submitted to the Clearinghouse is the responsibility of the reporting member jurisdiction. Although the information found in the Clearinghouse is believed to be reliable, no warranty, expressed or implied, is made by the Member Jurisdictions or NASDTEC regarding the accuracy, adequacy, completeness, legality, reliability, or usefulness of any information, either isolated or in the aggregate. The information is provided "as is". All warranties of any kind, express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, freedom from contamination by computer viruses, and non-infringement of proprietary rights, are disclaimed.

Any errors or omissions should be reported immediately to NASDTEC.

By signing this Acknowledgement, I acknowledge that I have read, understood and agree to the afore-mentioned terms and conditions as well as the terms and conditions detailed in the Clearinghouse Handbook and License Agreement. I also understand that failure to abide by these terms and conditions may limit or impact continued participation in the Clearinghouse. I also verify that I am authorized to execute this Acknowledgement and obligate my LEA or National Education Certification Organization to the terms herein.

LEA or National Education Certification Organization:

[Redacted]

Signature: [Redacted]

Print Name: [Redacted]

Title: _____

Date: _____

