

CRIMINAL RECORD CHECK

The Superintendent or designee shall ensure that no person is hired in a position requiring certification qualifications or supervising positions requiring certification qualifications who has been convicted of a violent or serious felony, unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code 44830.1)

(cf. 4112.2 - Certification)

However, a certificated employee may be hired by the district, without obtaining a criminal record summary, if that employee became a permanent employee of another school district as of October 1, 1997. (Education Code 44830.1)

The Superintendent or designee shall ensure that no current certificated temporary, substitute or temporary employee serving before March 15 of the employee's second probationary year who has been convicted of a violent or serious felony is retained. (Education Code 44830.1)

When the Board of Trustees requests a criminal record summary of a temporary, substitute or probationary certificated employee, the district shall submit two fingerprint cards in accordance with law, together with a personal description of the person and a fee, to the Department of Justice. (Education Code 44830.1)

(cf. 4121 – Temporary/Substitute Personnel)

Upon notification by the Department of Justice that a current temporary, substitute or probationary employee, serving before March 15 of the employee's second probationary year, has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1)

When the district receives written electronic notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall immediately terminate the employee without regard to any other procedure for termination specified in the Education Code or district procedures, unless that employee has received a certificate of rehabilitation and a pardon. (Education Code 44830.1)

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent or designee shall immediately reinstate the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement. (Education Code 44830.1)

The Superintendent or designee shall request subsequent arrest service from the Department of Justice as provided under Penal Code 11105.2. (Education Code 44830.1)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

CRIMINAL RECORD CHECK (continued)

Temporary Certificates of Clearance

Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the Superintendent or designee shall obtain a criminal record summary from the Department of Justice. The Superintendent or designee shall not issue a temporary certificate of clearance if the applicant has been convicted of a violent or serious felony, unless the applicant has obtained a certificate of rehabilitation and pardon. (Education Code 44332, 44332.5, 44332.6)

The Superintendent or designee may issue a temporary certificate of clearance without obtaining a criminal record summary to an employee currently and continuously employed by a district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential. (Education Code 44332.6)

The Superintendent or designee may issue a temporary certificate of clearance to a person who has been convicted of a serious felony that is not also a violent felony, if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he/she has been rehabilitated for the purposes of school employment for at least one year. (Education Code 44332.6)

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

Management Resources:

WEB SITES

Department of Justice/Attorney General's Office: <http://www.caag.state.ca.us/app>

CSBA: <http://www.csba.org>