

**CRIMINAL RECORD CHECK**

**Applicants for Employment**

All applicants for classified positions, including temporary, substitute and part-time positions, shall be required to submit fingerprint identification cards. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit a fingerprint identification card. (Education Code 45125)

The Superintendent or designee shall ensure that each classified applicant has a local law enforcement authority prepare fingerprint identification cards with his/her personal description. The local law enforcement authority shall forward these cards, along with the required fee, to the Bureau of Criminal Identification Investigation, State Department of Justice, for processing. (Education Code 45125)

The district may charge the applicant a fee for processing the application as specified in law. If the applicant is subsequently hired by the district within 30 days of the application, the fee may be reimbursed to the applicant. (Education Code 45125)

The Superintendent or designee shall request the Department of Justice to forward one copy of the fingerprint cards to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions of the applicant if: (Education Code 45125)

1. The person has not resided in the State of California for at least one year immediately preceding the person's application for employment
2. The person has resided for more than one year, but less than seven years, in the State of California and the Department of Justice has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to, or the use of a controlled substance, by a minor

The Board of Trustees shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

*(cf. 4212 - Appointment and Conditions of Employment)*

The Superintendent or designee may hire a classified employee without waiting for the disposition of the employee's criminal history files upon a determination that an emergency or exceptional situation exists and that a delay in filling the position would endanger student health or safety. (Education Code 45125)

**CRIMINAL RECORD CHECK** (continued)

The Superintendent or designee may ask the local law enforcement agency to conduct an automated record check to ascertain whether a prospective classified employee has a criminal record. This information shall be requested only for applicants whom the district intends to hire at the time the check is requested. (Education Code 45125.5)

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

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

**Current Employees**

The Superintendent or designee shall maintain a list of all current district classified employees who have not completed a criminal background check, except secondary students employed in a temporary or part-time position by the district having jurisdiction over the school they attend. (Education Code 45125)

Upon notification by telephone from the Department of Justice that a current temporary, substitute or probationary classified employee has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay, unless the employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1)

Upon receipt of written notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall immediately terminate the temporary, substitute or probationary 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 45122.1)

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

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. (Education Code 45122.1)

The Superintendent or designee shall request subsequent arrest service from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

*Legal Reference: (see next page)*

**CRIMINAL RECORD CHECK (continued)**

*Legal Reference:*

EDUCATION CODE

- 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 agreements
- 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

GOVERNMENT CODE

- 6200-6203 Crimes related to public records

PENAL CODE

- 502 Unauthorized access to computers
  - 667.5 Prior prison terms, enhancement of prison terms
  - 1192.7 Plea bargaining limitation
  - 11075-11081 Criminal record dissemination
  - 11105 State criminal history information; furnishing to authorized persons
  - 11105.2 Subsequent arrest notification
  - 11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors
  - 11140-11144 Furnishing of state criminal history information
  - 13300-13305 Local summary criminal history information
- 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>