

Personnel
CRIMINAL RECORD CHECK

AR 4112.5(a)
4212.5
4312.5

Applicants for Employment

The Superintendent or designee shall ensure that each person to be employed, including temporary, substitute and part-time positions, submits fingerprints, ~~either~~ electronically through the Live Scan system ~~or on fingerprint identification cards~~, for processing by the Department of Justice and the Federal Bureau of Investigation. If the district is using the Live Scan system, the Superintendent or designee shall also provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

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 as listed in Penal Code 667.5(c) or 1192.7(c), unless that person has obtained a certificate of rehabilitation and a pardon. (Education Code ~~44830~~45122.1.)

The Governing Board shall not employ an applicant until the Department of Justice and Federal Bureau of Investigation have completed its check of the criminal history files. (Education Code 45125)

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4112.2 - Certification)

Subsequent Arrest Notification

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

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

Current Employees

Upon notification from the Department of Justice or Federal Bureau of Investigation 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)

~~The Superintendent or designee shall not retain in employment any current certificated employee who is a temporary employee, substitute employee or probationary employee serving before March 15 of the employee's second probationary year if he/she has been convicted of a violent or serious felony. (Education Code 44830.1) Upon notification by the Department of Justice of such conviction, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1)~~

Upon receipt of ~~When the district receives~~ written ~~electronic~~ notification of the fact of conviction from the Department of Justice or Federal Bureau of Investigation, the Superintendent or designee shall terminate ~~that 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~~44830.1~~)

AR 4112.5(b)
4312.5

CRIMINAL RECORD CHECK (continued)

If the employee challenges the Department of Justice or Federal Bureau of Investigation record and the Department of Justice or Federal Bureau of Investigation withdraws in writing its notification, the Superintendent or designee shall immediately reinstate ~~that the~~ the employee with full restoration of salary and benefits ~~for the period of time from the suspension without pay to the reinstatement~~. (Education Code 45122.1~~44830.1~~)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

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>