

MODESTO CITY SCHOOLS

Administrative Regulation

AR 3515.26

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees

Criminal Background Checks for Contractors

~~The Superintendent/designee shall not allow a contracting service employee to be assigned to a District work site until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. However, the Superintendent/designee may assign a contracting employee to a work site if it is determined the employee will have limited contact with pupils or that the contracting entity will be providing services in an emergency or exceptional situation, such as when student health or safety is endangered, or when repairs are needed to make school facilities safe and habitable. (Education Code 45125.1).~~

When the employees of any entity contracting with the district to provide specified services will have contact with students, the entity shall certify in writing to the Superintendent or designee that none of those employees has been convicted of a violent or serious felony as defined in Education Code 45122.1. In the case of a sole proprietor, the Superintendent or designee shall prepare and submit the employee's fingerprints to the Department of Justice. If any contracting employee who may have contact with students has been convicted of a violent or serious felony as defined, a certificate of rehabilitation and a pardon as required pursuant to Education Code 45125.1 shall be submitted to the Superintendent or designee before the contracting employee is authorized to perform the work for the district. (Education Code 45125.1)

These requirements shall apply to a sole proprietor or entity contracting with the district to provide any of the following services: (Education Code 45125.1, 45125.2)

Bold Black Underline = MCS Language

Bold Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees

Criminal Background Checks for Contractors

1. School and classroom janitorial services
2. School site administrative services
3. School site grounds and landscape maintenance services
4. Student transportation services
5. School site food-related services
6. Construction, reconstruction, rehabilitation, or repair of a school facility

On a case-by-case basis, the Superintendent or designee may require a contracting entity providing school site services other than those listed above to comply with these requirements. (Education Code 45125.1)

The Superintendent or designee may determine that criminal background checks will not be required if:

1. The contracting entity will be providing services in an emergency or exceptional situation, such as when student health or safety is endangered, or when repairs are needed to make school facilities safe and habitable. (Education Code 45125.1).
2. The employees of the contracting entity will have limited contact with students. In determining whether a contract employee has limited contract with students, the Superintendent or designee shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether students will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. (Education Code 45125.1)

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees

Criminal Background Checks for Contractors

Upon a determination that an employee will have limited contact with students, the Superintendent or designee shall take appropriate steps to protect the safety of any students who may come in contact with this employee. (Education Code 45125.1)

These steps may include, but are not limited to, ensuring that the employee is working during non-school hours, providing for regular patrols or supervision of the site from District security or personnel, ensuring that the employee is not working alone when students are present, limiting the employee's access to school grounds, and/or providing the employee with a visible means of identification.

3. The contract is for the construction, reconstruction, rehabilitation or repair of a school facility and either item #1 or #2 above applies or the district uses one or more of the following methods to ensure student safety: (Education Code 45125.2)1)
 - a. The installation of a physical barrier at the worksite to limit contact with students;
 - b. Continual supervision and monitoring of all employees of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony
 - c. Surveillance of employees of the entity by school personnel

Requirements for Contract Employees

~~The Superintendent/designee shall ensure that contracting entities providing school and classroom janitorial services, school site administrative services, school site grounds and landscape maintenance services, pupil transportation services, school site food-related services, or other similar services certify in writing that neither the employer nor any of its employees who may come into contact with pupils have been convicted of a violent or serious felony.~~

Bold Black Underline = MCS Language

Bold Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees

Criminal Background Checks for Contractors

~~Additionally, a/the Superintendent/designee on a case-by-case basis may require an entity providing school site services other than those listed to comply with Education Code section 45125.1 and relevant policies.~~

~~An entity required to comply with fingerprinting requirements shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony and notified the employer of this fact by mail or electronic mail (Education Code 45125 (c)).~~

~~This prohibition does not apply to any employee if the employee has obtained a certificate of rehabilitation; or if convicted only of a serious felony has proved to the sentencing court that he/she has been rehabilitated for school employment for at least one year (Education Code 45125.1 (f)).~~

~~The entity shall verify under penalty of law that the Department of Justice has ascertained that each employee has not been convicted of a violent or serious felony.~~

~~The Superintendent/designee shall notify the entity of the date his/her employees may be assigned to one or more of the District's school sites.~~

~~The Superintendent/designee shall distribute the calendar date of their deployment to the appropriate school sites (Education Code 45125.1).~~

~~Entities with contracts to which this section applies on its effective date must comply with the requirements of this section within 90 days (Education Code 45125.1 (h)).~~

Bold Black Underline = MCS Language

Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees
Criminal Background Checks for Contractors

Limited Contact

~~The Superintendent/designee may waive this requirement subject to the limited contact provisions and analysis embodied in the law (Education Code 45125 (d)).~~

~~In determining whether a contract employee shall have limited contact with students, the Superintendent/designee shall consider the totality of the circumstances, including the following factors:~~

- ~~1. The length of time the contractors will be on school grounds.~~
- ~~2. Whether students will be in proximity with the site where the contractors will be working.~~
- ~~3. Whether the contractors will be working by themselves or with others.~~

~~The Superintendent/designee shall take certain steps to protect the health and welfare of pupils. These steps may include, but not be limited to, ensuring that the employee is working during non-school hours, providing for regular patrols or supervision of the site from District security or personnel, ensuring that the employee is not working alone when students are present, limiting the employee's access to school grounds, and/or providing the employee with a visible means of identification.~~

Construction and Repair Contracts

~~When the Superintendent/designee determines that the employees of an entity with a contract for construction, reconstruction, rehabilitation or repair of a school facility will have more than limited contact with students, the District will ensure that the entity provide for safety of pupils by one or more of the following methods (Education Code 45125.1):~~

Bold Black Underline = MCS Language

Bold Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees

Criminal Background Checks for Contractors

1. ~~The installation of a physical barrier at the worksite to limit contact with students;~~
2. ~~Continual supervision and monitoring of all employees of the entity by a contracting employee who has not been convicted of a violent or serious felony;~~
3. ~~Surveillance of employee of the entity by school personnel (Education Code 45125.1 (a)).~~

~~Where one or more of the above methods is utilized, the District need not comply with the fingerprinting requirements of Education Code 45125.1 (b).~~

~~This will not apply when the Superintendent/designee determines that an emergency or exceptional situation exists, such as the endangerment of pupil health or safety, or repairs are needed to make school facilities safe and habitable.~~

Legal References:

EDUCATION CODE

41302.5 School districts, definition

45122.1 Classified employees, conviction of a violent or serious felony

45125.1 Criminal background checks for contractors

45125.2 Construction, etc. contractors, pupil safety

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

Management Resources:

WEBSITE

Department of Justice: <https://www.justice.gov/>

Bold Black Underline = MCS Language

Bold Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

Criminal Record Check/Contract Employees
Criminal Background Checks for Contractors

Cross References (cf.):

3000 – Concepts and Roles

3515.3 – District Police/Security Department

3540 – Transportation

3551 – Food Service Operations/Cafeteria Fund

3600 – Consultants

~~4112.5/4212.5/4312.5 – Criminal Offender Information~~

~~4112.5 – Criminal Record Check – Certificated~~

~~4212.5 – Criminal Record Check – Classified~~

~~4312.5 – Criminal Record Check – Management/Confidential~~

~~4112.62/4212.62/4312.62 – Maintenance of Criminal Offender Records~~

6159.3 – Appointment of Surrogate Parent for Special Education Students

7140 – Architectural and Engineering Services

REVIEWED: June 21, 1999

Bold Black Underline = MCS Language

Bold Red = CSBA Language

Regular Black = Common Language

➡ Denotes changes being suggested