

## CRIMINAL RECORD CHECK

### A. Purpose and Scope

To provide guidance and direction for administrative personnel regarding fingerprinting procedures for new employees.

### B. General

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

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.

### C. Forms Used and Additional References

Live Scan Request Form  
No longer interested notification

### D. Procedure

1. All new employees for certificated positions, including temporary, substitute and part-time positions shall be required to submit to fingerprint identification testing.
2. The Superintendent or designee shall ensure that no current certificated temporary, substitute or probationary employee serving before March 15 of the employee's second probationary year who has been convicted of a violent or serious felony is retained.
3. When the Governing Board requests a criminal record summary of a temporary, substitute or probationary certificated employee, the district shall send the employee for Livescan processing in accordance with law and have the employee fingerprints forwarded to the Department of Justice.
4. 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

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Superintendent or designee shall immediately place that employee on leave without pay.

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 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.

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.

5. The Superintendent or designee shall request subsequent arrest service from the Department of Justice as provided under Penal Code 11105.2.
6. Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the San Joaquin County Office of Education (SJCOE), Superintendent or designee shall obtain a criminal record summary from the Department of Justice. The SJCOE, 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.
7. The SJCOE, 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.
8. The SJCOE, 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.

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**E. Reports Required**

None

**F. Record Retention**

Upon a hiring determination, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained.

Upon termination, a No Longer Interested Notification will be sent to the Department of Justice.

**G. Responsible Administrative Unit**

Human Resources

**H. Approved By**

Associate Superintendent for Human Resources

**Legal References:**

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

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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