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 provide a Live Scan Request Form to all applicants for classified positions, including temporary, substitute and part-time employees. A records check must be completed before each non-certificated employee begins employment with the TUSD.

The Superintendent or designee shall ensure that each classified applicant has a local law enforcement authority scan his/her fingerprints for proper identification. The local law enforcement authority shall forward these fingerprints to the Bureau of Criminal Identification Investigation, State Department of Justice, for processing.

C. Forms Used and Additional References

Live Scan Request Form
No Longer Interested Notification

D. Procedure

1. All new employees for classified positions, including temporary, substitute and part-time positions shall be required to submit to fingerprint identification testing. The new employees will be prohibited from employment until the Department of Justice completes its investigation.

2. Secondary school students attending a District school who are to be employed in a temporary or part-time position shall not be subject to the fingerprinting requirement.

3. The Superintendent or designee shall request the Department of Justice to forward one copy of the fingerprints to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions of the applicant if:
CRIMINAL RECORD CHECK

a. the person has not resided in the State of California for at least one year immediately preceding the person’s application for employment

b. 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 that distribution to, or the use of a controlled substance, by a minor.

4. 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 filing the position would endanger student health or safety.

5. 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.

6. 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.

7. 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.

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.
CRIMINAL RECORD CHECK

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.

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

9. 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.

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
CRIMINAL RECORD CHECK

Legal References:

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

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