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 has 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

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 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.

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**

44010  Sex offense  
44332  Temporary certificate  
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

Regulation Acknowledged:  
TUSD: 1/11/2000