

Santa Barbara Unified School District

Administrative Regulation

AR 4112.5
4312.5

Certificated Personnel

CRIMINAL RECORD CHECK

Applicants for Employment

The Superintendent or designee shall ensure that each person to be employed submits fingerprints, either electronically through the Live Scan system or on fingerprint identification cards, for processing by the Department of Justice. 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 44830.1)

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

Temporary Certificate of Clearance

Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the Superintendent or designee shall obtain a criminal record summary from the Department of Justice. The 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. (Education Code 44332, 44332.5, 44332.6)

The 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. (Education Code 44332.6)

The 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. (Education Code 44332.6)

Subsequent Arrest Notification

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice 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

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)

When the district receives written electronic notification of the fact of conviction from the Department of Justice, the Superintendent or designee shall terminate that 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 44830.1)

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 that employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement. (Education Code 44830.1)

Legal Reference:

EDUCATION CODE

44010	<i>Sex offense</i>
44332	<i>Temporary certificate</i>
44332.5	<i>Registering certificates by certain districts</i>
44332.6	<i>Criminal record check, county board of education</i>
44346.1	<i>Applicants for credential, conviction of a violent or serious felony</i>
44830.1	<i>Certificated employees, conviction of a violent or serious felony</i>
44830.2	<i>Certificated employees; interagency agreement</i>
44836	<i>Conviction of a sex offense</i>
45122.1	<i>Classified employees, conviction of a violent or serious felony</i>
45125	<i>Use of personal identification cards to ascertain conviction of crime</i>
45125.01	<i>Classified employees; interagency agreements</i>
45125.5	<i>Automated records check</i>
45126	<i>Duty of Department of Justice to furnish information</i>

PENAL CODE

667.5	<i>Prior prison terms, enhancement of prison terms</i>
1192.7	<i>Plea bargaining limitation</i>
11105.2	<i>Subsequent arrest notification</i>

CODE OF REGULATIONS, TITLE 11

703	<i>Release of criminal offender record information</i>
708	<i>Destruction of criminal offender record information</i>

Management Resources:

WEB SITES

Department of Justice/Attorney General's Office: <http://www.caag.state.ca.us/app>
CSBA: <http://www.csba.org>

Regulation: SANTA BARBARA UNIFIED SCHOOL DISTRICT

Approved: January 26, 2010 Santa Barbara, California