

# **CVUSD**

## **Administrative Regulation**

AR 4112.5, 4312.5

### **Personnel**

#### **Criminal Record Check**

\*\*\*Note: Pursuant to Education Code 44346.1, the Commission on Teacher Credentialing (CTC) is required to deny any credential application and to revoke any credential issued to a person who has been convicted of a violent or serious felony. \*\*\*

#### **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)

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. (Education Code 44830.1)

(cf. 4121 - Temporary/Substitute Personnel)

\*\*\*Note: AB 2623 (Ch. 623, Statutes of 2000) added Penal Code 11105.75, operative July 1, 2002, which authorizes the DOJ, when the arrest record does not include fingerprints, to notify a district if it is determined that an applicant has a criminal history record. \*\*\*

#### **Subsequent Arrest Notification**

\*\*\*Note: Pursuant to Education Code 44830.1, the district is required to sign up for "subsequent arrest notification" from the DOJ. With this service, the DOJ will notify the district of the subsequent arrest of any person whose fingerprints are maintained on file at the DOJ.\*\*\*

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 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

#### 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

Management Resources:

WEB SITES

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

CSBA: <http://www.csba.org>

CSBA: (10/97 10/98) 7/02

CVUSD Global Adoption: March 17, 2009