

# **CVUSD**

## **Administrative Regulation**

AR 4112.62, 4212.62, 4312.62

### **Personnel**

#### Maintenance Of Criminal Offender Records

\*\*\*Note: Pursuant to Penal Code 11077, the state Attorney General/Department of Justice (DOJ) has the responsibility for ensuring the security of criminal history information used for employment, licensing and certification purposes. As amended by AB 2012 (Ch. 840, Statutes of 1998), Education Code 44830.1 and 45125 require that information received from the DOJ be maintained in accordance the confidentiality provisions outlined below. This regulation also contains recommendations from the DOJ's sample policy on Criminal Offender Record Information for use by employers. Criminal offender records received by the district for certificated and classified employees, as well as volunteers, should be maintained in accordance with this regulation.\*\*\*

#### Maintenance of Criminal Offender Records

All information received from the Department of Justice is confidential. (Education Code 44830.1, 45125)

The Superintendent shall designate an employee as record custodian of all confidential fingerprint and criminal record history who shall be responsible for the administration of the information. Any questions regarding Criminal Offender Record Information shall be resolved by the record custodian.

- (cf. 1240 - Volunteer Assistance)
- (cf. 3515.6 - Criminal Background Checks for Contractors)
- (cf. 4112.5/4312.5 - Criminal Record Check)
- (cf. 4112.6/4212.6/4312.6 - Personnel Files)
- (cf. 4212.5 - Criminal Record Check)

The record custodian shall be fingerprinted and processed through the California Department of Justice. He/she shall sign an Employee Statement Form, acknowledging an understanding of the laws regarding Criminal Offender Record Information.

These records shall be used only for the purpose for which they were requested.

Upon a hiring determination, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

Violation of this administrative regulation may result in suspension, dismissal and/or criminal or civil prosecution.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)

The record custodian shall ensure that the district complies with destruction, storage, dissemination, auditing, backgrounding and training requirements as set forth in 11 CCR 701-708 and the rules regarding use and security of these records as set forth in Penal Code 11077. (Education Code 44830.1, 45125)

### Interagency Agreements

\*\*\*Note: As added by AB 2102 (Ch. 840, Statutes of 1998), Education Code 44830.2 and 45125.01 allows a district to enter into an agreement with other school districts within the county, or within contiguous counties, to share the criminal record information of applicants or temporary/substitute employees in those multiple school districts. Either another district or the county superintendent may be designated to act on behalf of the participating districts. The designated agency will send the fingerprints to DOJ for processing, receive and review the criminal history from the DOJ, and maintain common lists of persons eligible for employment.\*\*\*

Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated district shall give notice to the Superintendent or any participating district, or the person designated in writing by that Superintendent, that the report is available for inspection on a confidential basis by the Superintendent or the written designee. The report shall be made available at the office of the designated district for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The designated district shall not release a copy of that information to any participating district or any other person. In addition, the designated district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The designated district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the Department of Justice. (Education Code 44830.2, 45125.01)

The designated district shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive this information. (Education Code 44830.2, 45125.01)

Legal Reference:

EDUCATION CODE

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 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 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

11075-11081 Criminal record dissemination

11105 State criminal history information; furnishing to authorized persons

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

701-708 Criminal offender record information

CSBA: (10/97) 10/98

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