

# FULLERTON SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4012.2

### Appointments and Conditions of Employment – Criminal Record Check - Page 1

Board Adopted: November 29, 2005

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The Superintendent or designee shall ensure that each person to be employed, including temporary, substitute and part-time employees, submit fingerprints for processing by the Department of Justice. If the Fullerton School District is utilizing the Live Scan system, the Superintendent or designee shall provide the applicant with a LIVE SCAN request form and a list of nearby Live Scan locations. Other than stated exceptions, no applicant shall be employed until the Department of Justice completes its check of State Criminal History files.

The District may charge the applicant a fee for the costs of the fingerprint processing as specified in the law.

The Superintendent or designee shall ensure that no person is hired in a position requiring certification qualifications or supervision 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.

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.

The Superintendent or designee shall ensure that no person is hired in a classified position 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, 45122.1) The Superintendent or designee may however, 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 filling the position would endanger student health or safety.

The Superintendent or designee shall request the Department of Justice to submit information to the Federal Bureau of investigation for the purpose of obtaining any record of previous convictions of the applicant if:

1. The person has not resided in the State of California for at least one year immediately preceding the person's application for employment.
2. The person has resided for more than one year, not 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 the distribution to, or the use of a controlled substance, by a minor.

### Temporary Certificate of Clearance

Before issuing a temporary certificate of clearance to a certificated 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

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clearance if the applicant has been convicted of a violent or serious felony, unless the applicant has obtained a certificate of rehabilitation and pardon.

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.

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.

#### Subsequent Arrest Notification

The Superintendent or designee shall request subsequent arrest notification from the Department of Justice as provided under penal Code 11105.2.

#### 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. Upon notification by the Department of Justice of such conviction, 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 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.

Classified employees who are serving in temporary, substitute or probationary positions shall be terminated immediately if he/she has been convicted of a violent or serious felony.

If an 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.

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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 II	
	703	Release of Criminal Offender Record Information
	708	Destruction of Criminal Offender Record Information