

NOVATO UNIFIED SCHOOL DISTRICT

Board Policy

SERIES 4000

BP 4212.5

**CLASSIFIED
CRIMINAL RECORD CHECK**

Classified Personnel

The Governing Board desires to employ the most highly qualified person available for each open position. The Board also recognizes the importance of protecting its students from anyone convicted of a violent or serious felony. Applicants for employment in a classified position requiring contact with minor pupils who do not possess a valid California teaching credential or license requiring a criminal record check are required to submit two sets of fingerprints to the California Department of Justice to obtain a criminal record summary. (Education Code 45125.)

The district is prohibited from hiring any individual until the Department of Justice completes its record check, and the district receives clearance on individual applicants.

Revised and Adopted: May 2, 2000

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**CLASSIFIED
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Classified Personnel

A. APPLICANTS FOR EMPLOYMENT

All applicants for employment shall be required to submit fingerprint identification cards, including classified temporary, substitute and part time positions, and uncredentialed substitute or temporary personnel without clearance certificates. Exempted from this provision are secondary school students working at a school within the district they attend, and persons authorized to operate a school bus and similar vehicles. (EC45125, 44830.1)

All applicants for classified positions, including temporary, substitute and part-time positions shall be required to submit fingerprint identification cards. However, secondary school students attending a district school who are to be employed in a temporary or part-time position shall not be required to submit a fingerprint identification card. (Education Code 45125)

The Superintendent or designee shall prepare and send fingerprint identification cards and a personal description for each classified applicant to the Department of Justice. A fee for processing the applications as specified in law may be charged.

The Superintendent or designee shall ensure that each classified applicant has a local law enforcement authority prepare fingerprint identification cards with his/her personal description. The local law enforcement authority shall forward these cards, along with the required fee, to the Bureau of Criminal Identification Investigation, State Department of Justice, for processing. (Education Code 45125)

The district may charge the applicant a fee for processing the application as specified in law. If the district subsequently hires the applicant within 30 days of the application, the fee may be reimbursed to the applicant. (Education Code 45125)

The district may request an expedited process or may ask the local law enforcement agency to conduct an automated record check to ascertain whether a prospective employee has a criminal record.

The Superintendent or designee shall request the Department of Justice to forward one copy of the fingerprint cards to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions of the applicant if: (Education Code 45125)

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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, but 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

The Governing Board shall not employ an applicant until the Department of Justice completes its check of the state criminal history files. (Education Code 45125)

(cf. 4212 - Appointment and Conditions of Employment)

The Superintendent or designee may 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. (Education Code 45125)

The Superintendent or designee may ask the local law enforcement agency to conduct an automated record check to ascertain whether a prospective classified employee has a criminal record. This information shall be requested only for applicants whom the district intends to hire at the time the check is requested. (Education Code 45125.5)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

B. CURRENT EMPLOYEES

The Superintendent or designee shall prepare and forward to the Department of Justice fingerprint identification cards for all current classified employees, except secondary students, who do not have a completed criminal background check.

A list of all classified employees for the prior school year shall be submitted to the Department of Justice annually on September 30 indicating whether a criminal background check has been completed.

The Superintendent or designee shall maintain a list of all current district classified employees who

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have not completed a criminal background check, except secondary students employed in a temporary or part-time position by the district having jurisdiction over the school they attend. (Education Code 45125)

C. DISMISSAL/SUSPENSION (EC 45122.1)

Upon notification by telephone from the Department of Justice that a current temporary, ~~or~~ substitute, or probationary employee has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee shall be immediately placed on leave without pay, unless the employee has received a certificate of rehabilitation and a pardon. (Education Code 45122.1).

Upon receipt of written notification of the fact of conviction from the Department of Justice ~~of a~~ conviction of a violent or serious felony, the Superintendent or designee shall immediately terminate the temporary, substitute or probationary employee shall be terminated 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 45122.1)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its written notification of withdrawal is received, the Superintendent or designee shall immediately reinstate the employee shall be immediately reinstated with full restoration of salary and benefits. (Education Code 45122.1)

The Superintendent or designee shall request subsequent arrest service from the Department of Justice as provided under Penal Code 11105.2. (Education Code 45125)

Legal Reference:

EDUCATION CODE

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 agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

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45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

GOVERNMENT CODE

6200-6203 Crimes related to public records

PENAL CODE

502 Unauthorized access to computers

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

11105.2 Subsequent arrest notification

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

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>

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