Personnel

Criminal Record Check

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if: (Education Code 44830.1, 44836, 45122.1, 45123)

1. The conviction for a violent or serious felony, controlled substance offense, or sex offense is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor.

2. A person convicted of a violent or serious felony has obtained a certificate of rehabilitation or a pardon.

3. A person who has been convicted of a serious felony, that is not also a violent felony, proves to the sentencing court that he/she has been rehabilitated for purposes of school employment for at least one year.

4. A person who has been convicted of a controlled substance offense is applying for or is employed in a certificated position and has a credential issued by the Commission on Teacher Credentialing.

5. A person who has been convicted of a controlled substance offense is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4112.2 - Certification)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)
Criminal Record Check (Cont.)

Pre-Employment Record Check

The Superintendent or designee shall require each person to be employed by the district to submit his/her fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.

2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ 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 Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

(cf. 4116 - Probationary/Permanent Status)
(cf. 4121 - Temporary/Substitute Personnel)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, 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 if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)
Criminal Record Check (Cont.)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Maintenance of Records

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging his/her understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

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

Interagency Agreement

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)
In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of 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 authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the 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 district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

Legal Reference:
EDUCATION CODE
44010 Sex offense
44011 Controlled substance offense
44332-44332.6 Temporary certificate of clearance
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 for sharing criminal record information
44836 Conviction of a sex or controlled substance offense
44932 Grounds for dismissal of permanent certificated employees
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 agreement for sharing criminal record information
45125.5 Automated records check
45126 Duty of Department of Justice to furnish information
49024 Activity supervisor clearance certificates
PENAL CODE
667.5 Violent felonies
1192.7 Serious felonies
1203.4 Dismissal of conviction
11075-11081 Criminal record dissemination
11102.2 Maintenance of criminal offender records; custodian of records
11105 Access to criminal history information
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
701-708 Criminal offender record information
720-724 Incomplete criminal history information
994-994.15 Certification of individuals who take fingerprint impressions
Criminal Record Check (Cont.)

COURT DECISIONS
Management Resources:
WEB SITES
Office of the Attorney General, Department of Justice, Background Checks:
http://www.oag.ca.gov/fingerprints

Adopted: 12/6/06
Amended: 3/4/15
Oroville Union High School District
Disqualifying Penal Code Sections

If an applicant has been convicted of any of the penal codes listed below, the applicant will automatically be denied employment.

All applicants should review this list carefully to avoid wasting their time, effort and money to get their fingerprints processed as they cannot receive the required criminal background clearance if they have been convicted of any of these violations.

Section

187 Murder
192(a) Manslaughter, Voluntary
203 Mayhem
205 Aggravated Mayhem
206 Torture
207 Kidnapping
209 Kidnapping for ransom, reward, or extortion or robbery
210 Extortion by posing as kidnapper
210.5 False imprisonment
211 Robbery (Includes degrees in 212.5 (a) and (b))
220 Assault with intent to commit mayhem, rape, sodomy, oral copulation
222 Administering stupefying drugs to assist in commission of a felony
243.4 Sexual battery (Includes degrees (a) - (d))
245 Assault with deadly weapon, all inclusive
261 Rape (Includes degrees (a)-(c))
262 Rape of spouse (Includes degrees (a)-(e))
264.1 Rape or penetration of genital or anal openings by foreign object
265 Abduction for marriage or defilement
266 Inveiglement or enticement of female under 18
266a Taking person without will or by misrepresentation for prostitution
266b Taking person by force
266c Sexual act by fear
266d Receiving money to place person in cohabitation
266e Placing a person for prostitution against will
266f Selling a person
266g Prostitution of wife by force
266h Pimping
266i Pandering
266j Placing child under 16 for lewd act
266k Felony enhancement for pimping/pandering
267 Abduction of person under 18 for purposes of prostitution
273a Willful harm or injury to a child; (Includes degrees (a)-(c))
273d Corporal punishment/injury to a child (Includes degrees (a)-(c))
273.5 Willful infliction of corporal injury (Includes (a)-(h))
285 Incest
286(c) Sodomy with person under 14 years against will
Per Board Policy and Administrative Regulation 4112.5, 4212.5 and 4312.5, 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)

Cases dismissed by penal code 1204.3 may still disqualify applicants from employment in the Oroville Union High School District. The Board of Trustees will make the final determination.

Any applicant who attempts to contact and individual board member with the intention of influencing the decision of the Board will be disqualified by that action.