

Business and Non-instructional Operations

Criminal Background Checks for Contractors

When the employees of any entity contracting with the district to provide specified services will have contact with students, the entity shall certify in writing to the Superintendent or designee that none of those employees has been convicted of a violent or serious felony as defined in Education Code 45122.1. In the case of a sole proprietor, the Superintendent or designee shall prepare and submit the employee's fingerprints to the Department of Justice. If any contracting employee who may have contact with students has been convicted of a violent or serious felony as defined, a certificate of rehabilitation and a pardon as required pursuant to Education Code 45125.1 shall be submitted to the Superintendent or designee before the contracting employee is authorized to perform the work for the district. (Education Code 45125.1)

These requirements shall apply to a sole proprietor or entity contracting with the district to provide any of the following services: (Education Code 45125.1, 45125.2)

1. School and classroom janitorial services
2. School site administrative services
3. School site grounds and landscape maintenance services
4. Student transportation services
5. School site food-related services
6. Construction, reconstruction, rehabilitation, or repair of a school facility

(cf. 3540 - Transportation)
(cf. 3551 - Food Service Operations/Cafeteria Fund)
(cf. 3600 - Consultants)
(cf. 7140 - Architectural and Engineering Services)

On a case-by-case basis, the Superintendent or designee may require a contracting entity providing school site services other than those listed above to comply with these requirements. (Education Code 45125.1)

The Superintendent or designee may determine that criminal background checks will not be required if:

1. The contracting entity is providing services in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed to make school facilities safe and habitable. (Education Code 45125.1)
2. The employees of the contracting entity will have limited contact with students. In determining whether a contract employee has limited contact with students, the Superintendent or designee shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether students will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. (Education Code 45125.1)

Criminal Background Checks for Contractors (Cont.)

Upon a determination that an employee will have limited contact with students, the Superintendent or designee shall take appropriate steps to protect the safety of any students who may come in contact with this employee. (Education Code 45125.1)

These steps may include, but are not limited to, ensuring that the employee is working during non-school hours, providing for regular patrols or supervision of the site from district security or personnel, ensuring that the employee is not working alone when students are present, limiting the employee's access to school grounds, and/or providing the employee with a visible means of identification.

(cf. 3515.3 - District Police/Security Department)

3. The contract is for the construction, reconstruction, rehabilitation, or repair of a school facility and either item #1 or #2 above applies or the district uses one or more of the following methods to ensure student safety: (Education Code 45125.2)
 - a. The installation of a physical barrier at the worksite to limit contact with students
 - b. Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony
 - c. Surveillance of employees of the entity by school personnel

Legal Reference:

EDUCATION CODE

41302.5 School districts, definition

45122.1 Classified employees, conviction of a violent or serious felony

45125.1 Criminal background checks for contractors

45125.2 Criminal background checks for construction

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

Management Resources:

WEB SITES

Department of Justice: <https://oag.ca.gov/fingerprints>

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