CRIMINAL RECORD CHECK

The Santa Cruz County Superintendent of Schools (County 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 County 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.

A certificated employee may be hired by the Santa Cruz County Office of Education (Santa Cruz COE) 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 County 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)

**PRE-EMPLOYMENT RECORD CHECK**

The County Superintendent or designee shall require each person to be employed by the Santa Cruz COE 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 County 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 classified position, the County 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 County 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 County 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 County Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the Santa Cruz COE 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 County 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 County Superintendent or designee shall immediately notify the DOJ whenever a person
whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

NOTIFICATION OF APPLICANT/EMPLOYEE

The County 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)

MAINTENANCE OF RECORDS

The County 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)

Once a hiring determination is made, the applicant's CORI 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)

The County Superintendent or designee shall immediately notify the DOJ whenever a designated
custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

Legal Reference:

EDUCATION CODE
Sex offense
Controlled substance offense
4432-4432.6 Temporary certificate of clearance
44346.1 Applicants for credential, conviction of a violent or serious felony
Certificated employees, conviction of a violent or serious felony
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
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
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
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

**COURT DECISIONS**

**Management Resources:**

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