

## **Business and Non-Instructional Operations**

### **CRIMINAL BACKGROUND CHECKS FOR CONTRACTORS**

Whenever the district contracts for school and classroom janitorial, school site administrative, school site grounds and landscape maintenance, student transportation, and school site food related services, the Superintendent or designee shall ensure that the contracting entity certifies in writing that any employees who may come into contact with students have not been convicted of a felony as defined in Education Code 45122.1, unless employee has received a certificate of rehabilitation and a pardon. (Education Code 45125.1)

- (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 also require a contracting entity providing school site services, other than those listed above, to comply with these requirements. (Education Code 45125.1)

These requirements shall not apply if the Superintendent or designee determines that 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)

In addition, these requirements shall not apply if the Superintendent or designee determines that 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 the following factors: (Education Code 45125.1)

1. The length of time the contractors will be on school grounds.
2. Whether students will be in proximity with the site where the contractors will be working.
3. Whether the contractors will be working by themselves or with others.

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

These steps may include, but not be limited to, ensuring that the employee is working during non-school hours, providing for supervision of the site from district 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 Department)

Other Facility Contractors

When the district contracts for construction, reconstruction, rehabilitation or repair of a school facility where the employees of the entity will have contact, other than limited contact with students, the Superintendent or designee shall ensure the safety of students by utilizing one or more of the following methods: (Education Code 45125.2)

1. The installation of a physical barrier at the worksite to limit contact with students.
2. 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.

The supervising employee may submit his/her fingerprints to the Department of Justice pursuant to Education Code 45125.1.

3. Surveillance of employees of the entity by school personnel.

These requirements shall not apply if the Superintendent or designee determines that the contracting entity is providing construction, reconstruction, rehabilitation or repair 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 45125.2)

Legal Requirements:

EDUCATION CODE

- 41302.5 School districts, definition
- 45122.1 Classified employees, conviction of a violent or serious felony
- 45125.1 Criminal background checks for contractor
- 45125.2 Criminal background checks for construction

PENAL CODE

- 667.5 Prior prison terms, enhancement of prison terms
- 1192.7 Plea bargaining limitations

Regulation approved: **January 11, 2000**      **FRUITVALE SCHOOL DISTRICT, Bakersfield, CA**

*(Reviewed December, 2011)*