

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 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

CRIMINAL BACKGROUND CHECKS FOR CONTRACTORS

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 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)

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.

Legal Reference:

EDUCATION CODE

[41302.5](#) School Districts, definition

[45122.1](#) Classified employees, conviction of a violent or serious felony

CRIMINAL BACKGROUND CHECKS FOR CONTRACTORS

[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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