

AMENDED IN SENATE JUNE 24, 2010  
AMENDED IN SENATE JUNE 3, 2010  
AMENDED IN SENATE JULY 23, 2009  
AMENDED IN ASSEMBLY JUNE 1, 2009  
AMENDED IN ASSEMBLY APRIL 14, 2009  
AMENDED IN ASSEMBLY MARCH 24, 2009  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 346**

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**Introduced by Assembly Member Conway**

February 19, 2009

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~~An act to amend Section 49024 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 45125.01 and 49024 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as amended, Conway. Schools: *noncertificated candidates*: Activity Supervisor Clearance Certificate.

~~Existing law, commencing on July 1, 2010, requires that a noncertificated candidate obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing before assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program, as defined.~~

~~This bill would delay this requirement until July 1, 2011, but authorize the commission to issue the certificate before the requirement is implemented.~~

~~This~~

*(1) Existing law allows school districts to agree among themselves to designate a single district, or a county superintendent to agree to act on behalf of participating school districts within the county or contiguous counties, for the purposes of performing specified duties regarding criminal background checks and maintaining employment lists if a person is an applicant for employment, or is employed on a part-time or substitute basis, in a position not requiring certification qualifications in multiple school districts within a county or within contiguous counties.*

*This bill, in addition, would extend this authority to a noncertificated candidate who is assuming a paid or volunteer position, as specified, in multiple school districts within a county or within contiguous counties.*

*(2) Existing law, commencing on July 1, 2010, requires that a noncertificated candidate obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing before assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by, or affiliated with, a school district, as defined. Existing law exempts volunteer supervisors for breakfast, lunch, or other nutritional periods and nonteaching volunteer aides, as defined, under the immediate supervision and direction of certificated personnel of the district from this requirement.*

*This bill instead would provide that the requirement to obtain an Activity Supervisor Clearance Certificate is applicable to a paid or volunteer position to work with pupils in a pupil activity program sponsored by a school district. The bill would provide that a parent volunteering in a classroom or on a field trip or a community member providing noninstructional services is a nonteaching volunteer aide for purposes of the exemption described above. The bill would provide that the requirement to obtain a certificate does not apply to a candidate who is required by the school district to clear a Department of Justice and Federal Bureau of Investigation criminal background check prior to beginning the paid or volunteer activities.*

*(3) This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: 2/3. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 45125.01 of the Education Code is  
2     amended to read:  
3     45125.01. (a) ~~For situations in which~~ If a person is an applicant  
4     for employment, or is employed on a part-time or substitute basis,  
5     in a position not requiring certification qualifications, *or is a*  
6     *noncertificated candidate assuming a paid or volunteer position*  
7     *in accordance with Section 49024*, in multiple school districts  
8     within a county or within contiguous counties, the *school* districts  
9     may agree among themselves to designate a single district, or a  
10    county superintendent may agree to act on behalf of participating  
11    districts within the county or contiguous counties, for the purposes  
12    of performing the following duties:  
13    (1) Sending fingerprints to the Department of Justice.  
14    (2) Receiving reports of convictions of serious and violent  
15    felonies, criminal history records, and reports of subsequent arrests  
16    from the Department of Justice.  
17    (3) Maintaining common lists of persons eligible for  
18    employment.  
19    (b) The school district or county superintendent serving in the  
20    capacity authorized in subdivision (a) shall be considered the  
21    employer for purposes of subdivisions (a) and (f) of Section 45125.  
22    (c) Upon receipt from the Department of Justice of a report of  
23    conviction of a serious or violent felony, the designated school  
24    district or county superintendent shall communicate that fact to  
25    the participating districts and remove the affected employee from  
26    the common list of persons eligible for employment.  
27    (d) Upon receipt from the Department of Justice of a criminal  
28    history record or report of subsequent arrest for any person on a  
29    common list of persons eligible for employment, the designated  
30    school district or county superintendent shall give notice to the  
31    superintendent of any participating district or a person designated  
32    in writing by that superintendent, that the report is available for  
33    inspection on a confidential basis by the superintendent or  
34    authorized designee, at the office of the designated school district  
35    or county superintendent, for a period of 30 days following receipt

1 of notice to enable the employing school district to determine  
 2 whether the employee meets that district’s criteria for continued  
 3 employment. The designated school district or county  
 4 superintendent shall not release a copy of that information to any  
 5 participating district or any other person, shall retain or dispose of  
 6 the information in the manner required by law after all participating  
 7 districts have had an opportunity to inspect it in accordance with  
 8 this section, and shall maintain a record of all persons to whom  
 9 the information has been shown that shall be available to the  
 10 Department of Justice to monitor compliance with the requirements  
 11 of confidentiality contained in this section.

12 (e) Any agency processing Department of Justice responses  
 13 pursuant to this section shall submit an interagency agreement to  
 14 the Department of Justice to establish authorization to submit and  
 15 receive information pursuant to this section.

16 (f) All information obtained from the Department of Justice is  
 17 confidential. Every agency handling Department of Justice  
 18 information shall ensure the following:

19 (1) ~~No~~A recipient ~~may~~ shall not disclose its contents or provide  
 20 copies of information.

21 (2) Information received shall be stored in a locked file separate  
 22 from other files, and shall only be accessible to the custodian of  
 23 records.

24 (3) Information received shall be destroyed upon the hiring  
 25 determination in accordance with subdivision (a) of Section 708  
 26 of Title 11 of the California Code of Regulations.

27 (4) Compliance with destruction, storage, dissemination,  
 28 auditing, backgrounding, and training requirements as set forth in  
 29 Sections ~~700 through~~ 701 to 708, inclusive, of Title 11 of the  
 30 California Code of Regulations and Section 11077 of the Penal  
 31 Code governing the use and security of criminal offender record  
 32 information is the responsibility of the entity receiving the  
 33 information from the Department of Justice.

34 *SEC. 2. Section 49024 of the Education Code is amended to*  
 35 *read:*

36 49024. (a) Prior to assuming a paid or volunteer position to  
 37 ~~supervise, direct, or coach work with pupils in a pupil activity~~  
 38 ~~program sponsored by, or affiliated with,~~ a school district, all  
 39 noncertificated candidates shall obtain an Activity Supervisor

1 Clearance Certificate from the Commission on Teacher  
2 Credentialing pursuant to subdivision (f) of Section 44258.7.

3 (b) A pupil activity program sponsored by, ~~or affiliated with,~~ a  
4 school district includes, but is not limited to, scholastic programs,  
5 interscholastic programs, and extracurricular activities sponsored  
6 by a school district or school booster club, including, but not  
7 limited to, cheer team, drill team, dance team, and marching band.

8 (c) Volunteer supervisors for breakfast, lunch, or other  
9 nutritional periods pursuant to Sections 44814 and 44815, and  
10 nonteaching volunteer aides, *as defined in Section 35021*, under  
11 the immediate supervision and direction of certificated personnel  
12 of the district ~~pursuant to Section 35021~~, shall not be required to  
13 obtain an Activity Supervisor Clearance Certificate. *For purposes*  
14 *of this section, a nonteaching volunteer aide includes a parent*  
15 *volunteering in a classroom or on a field trip or a community*  
16 *member providing noninstructional services.*

17 (d) Candidates may be issued a temporary certificate in  
18 accordance with Sections 44332 and 44332.5 while the application  
19 is being processed.

20 (e) *This section does not apply to a candidate who is required*  
21 *by the school district to clear a Department of Justice and Federal*  
22 *Bureau of Investigation criminal background check prior to*  
23 *beginning the paid or volunteer activities described in subdivision*  
24 *(a).*

25 (e)

26 (f) This section shall become operative on July 1, 2010.

27 *SEC. 3. This act is an urgency statute necessary for the*  
28 *immediate preservation of the public peace, health, or safety within*  
29 *the meaning of Article IV of the Constitution and shall go into*  
30 *immediate effect. The facts constituting the necessity are:*

31 *In order to ensure that noncertificated candidates are screened*  
32 *for criminal background checks at the earliest possible time, it is*  
33 *necessary that this act take effect immediately.*

34 ~~SECTION 1. Section 49024 of the Education Code is amended~~  
35 ~~to read:~~

36 ~~49024. (a) (1) Commencing on July 1, 2011, before a~~  
37 ~~noncertificated individual assumes a paid or volunteer position to~~  
38 ~~supervise, direct, or coach a pupil activity program sponsored by,~~  
39 ~~or affiliated with, a school district, the individual shall obtain an~~  
40 ~~Activity Supervisor Clearance Certificate from the Commission~~

1 on Teacher Credentialing pursuant to subdivision (f) of Section  
2 44258.7.

3 (2) ~~The Commission on Teacher Credentialing may issue an~~  
4 ~~Activity Supervisor Clearance Certificate pursuant to subdivision~~  
5 ~~(f) of Section 44258.7 before the requirement in paragraph (1) is~~  
6 ~~implemented.~~

7 (b) ~~A pupil activity program sponsored by, or affiliated with, a~~  
8 ~~school district includes, but is not limited to, scholastic programs,~~  
9 ~~interscholastic programs, and extracurricular activities sponsored~~  
10 ~~by a school district or school booster club, including, but not~~  
11 ~~limited to, cheer team, drill team, dance team, and marching band.~~

12 (e) ~~Volunteer supervisors for breakfast, lunch, or other~~  
13 ~~nutritional periods pursuant to Sections 44814 and 44815, and~~  
14 ~~nonteaching volunteer aides under the immediate supervision and~~  
15 ~~direction of certificated personnel of the district pursuant to Section~~  
16 ~~35021, shall not be required to obtain an Activity Supervisor~~  
17 ~~Clearance Certificate.~~

18 (d) ~~Candidates may be issued a temporary certificate in~~  
19 ~~accordance with Sections 44332 and 44332.5 while the application~~  
20 ~~is being processed.~~

21 (e) ~~This section shall become operative on July 1, 2010.~~

22 SEC. 2. ~~This act is an urgency statute necessary for the~~  
23 ~~immediate preservation of the public peace, health, or safety within~~  
24 ~~the meaning of Article IV of the Constitution and shall go into~~  
25 ~~immediate effect. The facts constituting the necessity are:~~

26 ~~In order to delay for one year the requirement that noncertificated~~  
27 ~~paid and volunteer school personnel obtain an Activity Supervisor~~  
28 ~~Clearance Certificate, it is necessary that this act take effect~~  
29 ~~immediately.~~