

Assembly Bill No. 346

Passed the Assembly July 1, 2010

Chief Clerk of the Assembly

Passed the Senate June 28, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, Conway. Schools: noncertificated candidates: Activity Supervisor Clearance Certificate.

(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.

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

SECTION 1. Section 45125.01 of the Education Code is amended to read:

45125.01. (a) 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, or is a noncertificated candidate assuming a paid or volunteer position in accordance with Section 49024, in multiple school districts within a county or within contiguous counties, the school districts may agree among themselves to designate a single district, or a county superintendent may agree to act on behalf of participating districts within the county or contiguous counties, for the purposes of performing the following duties:

(1) Sending fingerprints to the Department of Justice.

(2) Receiving reports of convictions of serious and violent felonies, criminal history records, and reports of subsequent arrests from the Department of Justice.

(3) Maintaining common lists of persons eligible for employment.

(b) The school district or county superintendent serving in the capacity authorized in subdivision (a) shall be considered the employer for purposes of subdivisions (a) and (f) of Section 45125.

(c) Upon receipt from the Department of Justice of a report of conviction of a serious or violent felony, the designated school district or county superintendent shall communicate that fact to the participating districts and remove the affected employee from the common list of persons eligible for employment.

(d) Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated

school district or county superintendent shall give notice to the superintendent of any participating district or a person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or authorized designee, at the office of the designated school district or county superintendent, for a period of 30 days following receipt of notice to enable the employing school district to determine whether the employee meets that district's criteria for continued employment. The designated school district or county superintendent shall not release a copy of that information to any participating district or any other person, shall retain or dispose of the information in the manner required by law after all participating districts have had an opportunity to inspect it in accordance with this section, and shall maintain a record of all persons to whom the information has been shown that shall be available to the Department of Justice to monitor compliance with the requirements of confidentiality contained in this section.

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

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

(1) A recipient shall not disclose its contents or provide copies of information.

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

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

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

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

49024. (a) Prior to assuming a paid or volunteer position to work with pupils in a pupil activity program sponsored by a school district, all noncertificated candidates shall obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing pursuant to subdivision (f) of Section 44258.7.

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

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

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

(e) This section 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 described in subdivision (a).

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

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

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

Approved _____, 2010

Governor