

ASSEMBLY BILL

No. 13

Introduced by Assembly Member Knight

December 6, 2010

An act to amend Sections 35021, 35021.1, 35021.2, 44836, and 49024 of the Education Code, relating to public school volunteers.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as introduced, Knight. Public school volunteers.

Existing law authorizes any person, except a person required to register as a sex offender pursuant to a designated provision, to be permitted by the governing board of a school district to serve as a nonteaching volunteer aide under the immediate supervision and direction of certificated personnel of the district to perform noninstructional work that serves to assist the certificated personnel of the district in their teaching and administrative responsibilities. Existing law authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of a designated sex offense.

Existing law prohibits school district governing boards from employing or retaining in employment persons in public school service who have been convicted of a designated sex offense or controlled substance offense unless the conviction is reversed and the person is acquitted of the offense in a new trial, or the charges against him or her are dismissed. Existing law requires, prior to assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by, or affiliated with, a school district, noncertificated

candidates to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing.

This bill would specify that each of these provisions applies to charter schools. The bill would also prohibit persons who have been convicted of specified sex, controlled substance, or violent offenses from serving as nonteaching volunteer aides.

Vote: majority. 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 35021 of the Education Code is amended
2 to read:
3 35021. (a) Notwithstanding any other law, any person, except
4 a person required to register as a sex offender pursuant to Section
5 290 of the Penal Code, may be permitted by the governing board
6 of ~~any a~~ school district, *county office of education, or charter*
7 *school* to perform the duties specified in Section 44814 or 44815,
8 or to serve as a nonteaching volunteer aide under the immediate
9 supervision and direction of the certificated personnel of the district
10 to perform noninstructional work which serves to assist the
11 certificated personnel in performance of teaching and
12 administrative responsibilities. With respect to this noninstructional
13 work, the nonteaching volunteer aide shall serve without
14 compensation of any type or other benefits accorded to employees
15 of the district, except as provided in Section 3364.5 of the Labor
16 Code.
17 (b) ~~No district may~~ *A district shall not* abolish any of its
18 classified positions and utilize volunteer aides, as authorized ~~herein~~
19 *in this section*, in lieu of classified employees who are laid off as
20 a result of the abolition of a position. A district shall not refuse to
21 employ a person in a vacant classified position and use volunteer
22 aides in lieu of filling the classified position.
23 (c) It is the intent of the Legislature to permit school districts,
24 *county offices of education, and charter schools* to use volunteer
25 aides to enhance ~~its their~~ *educational-program programs* but not
26 to permit displacement of classified employees nor to allow
27 districts to utilize volunteers in lieu of normal employee
28 requirements.

1 SEC. 2. Section 35021.1 of the Education Code is amended to
2 read:

3 35021.1. (a) A school district~~or~~, county office of education,
4 *or charter school* may request~~that~~ a local law enforcement agency
5 *to* conduct an automated records check of a prospective
6 nonteaching volunteer aide in order to ascertain whether the
7 prospective nonteaching volunteer aide has been convicted of~~any~~
8 *a sex offense as defined in Section 44010, a controlled substance*
9 *offense as defined in Section 44011, or a violent or serious felony*
10 *as defined in Section 45122.1. A person who would be prohibited*
11 *from employment or retention in employment under Section 44836*
12 *or 45122.1 shall be prohibited from serving as a nonteaching*
13 *volunteer aide.*~~A~~

14 (b) A plea or verdict of guilty, a finding of guilt by a court in
15 a trial without jury, or a conviction following a plea of nolo
16 contendere shall be deemed to be a conviction within the meaning
17 of this section. If the local law enforcement agency agrees to
18 provide that automated records check, the results therefrom shall
19 be returned to the requesting district~~or~~, county office of education,
20 *or charter school* within 72 hours of the written request. A local
21 law enforcement agency may charge a fee to the requesting agency
22 not to exceed the actual expense to the law enforcement agency.

23 SEC. 3. Section 35021.2 of the Education Code is amended to
24 read:

25 35021.2. (a) When a school district~~or~~, county office of
26 education, *or charter school* pursuant to Section 11105.3 of the
27 Penal Code requests from the Department of Justice records
28 involving criminal offenses committed by a prospective volunteer,
29 the school district~~or~~, county office of education, *or charter school*
30 may request that the Department of Justice provide subsequent
31 arrest notification service pursuant to Section 11105.2 of the Penal
32 Code. The Department of Justice shall comply with a request made
33 pursuant to this section.

34 (b) This section also applies to a person, firm, association,
35 partnership, or corporation offering or conducting private school
36 instruction on the elementary or high school level that requests,
37 pursuant to Section 11105.3 of the Penal Code, records involving
38 criminal offenses committed by a prospective volunteer.

39 SEC. 4. Section 44836 of the Education Code is amended to
40 read:

1 44836. (a) (1) The governing board of a school district shall
2 not employ or retain in employment persons in public school
3 service who have been convicted, or who have been convicted
4 following a plea of nolo contendere to charges, of any sex offense
5 as defined in Section 44010.

6 (2) If a person's conviction of a sex offense as defined in Section
7 44010 is reversed and the person is acquitted of the offense in a
8 new trial or the charges against him or her are dismissed, this
9 section does not prohibit his or her employment thereafter. If the
10 dismissal was pursuant to Section 1203.4 of the Penal Code and
11 the victim of the sex offense was a minor, this section does prohibit
12 the person's employment.

13 (b) (1) The governing board of a school district also shall not
14 employ or retain in employment persons in public school service
15 who have been convicted of any controlled substance offense as
16 defined in Section 44011.

17 (2) If a person's conviction for a controlled substance offense
18 as defined in Section 44011 is reversed and the person is acquitted
19 of the offense in a new trial or the charges against him or her are
20 dismissed, this section does not prohibit his or her employment
21 thereafter.

22 (c) Notwithstanding subdivision (b), the governing board of a
23 school district may employ a person convicted of a controlled
24 substance offense in a position requiring certification qualifications
25 if that person holds an appropriate credential issued by the
26 Commission on Teacher Credentialing.

27 (d) *Notwithstanding Section 47610, this section applies to a*
28 *charter school.*

29 SEC. 5. Section 49024 of the Education Code is amended to
30 read:

31 49024. (a) Prior to assuming a paid or volunteer position to
32 ~~work with~~ *supervise, direct, or coach* pupils in a pupil activity
33 program sponsored by, *or affiliated with*, a school district, all
34 noncertificated candidates shall obtain an Activity Supervisor
35 Clearance Certificate from the Commission on Teacher
36 Credentialing pursuant to subdivision (f) of Section 44258.7.

37 (b) A pupil activity program sponsored by, *or affiliated with*, a
38 school district includes, but is not limited to, scholastic programs,
39 interscholastic programs, and extracurricular activities sponsored

1 by a school district or school booster club, including, but not
2 limited to, cheer team, drill team, dance team, and marching band.

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

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

15 (e) ~~This section does not apply to a candidate who is required~~
16 ~~by the school district to clear a Department of Justice and Federal~~
17 ~~Bureau of Investigation criminal background check prior to~~
18 ~~beginning the paid or volunteer activities described in subdivision~~
19 ~~(a).~~ *Notwithstanding Section 47610, this section applies to a*
20 *charter school.*

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