

AMENDED IN ASSEMBLY MARCH 24, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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~~ *work with pupils in 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~~ authorize a school district, county office of education, or charter school to request a local law enforcement agency to conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether that person has been convicted of ~~specified sex, controlled substance, or violent offenses from serving as nonteaching volunteer aides~~ a felony controlled substance offense or a violent or serious felony, as specified. The bill would additionally prohibit persons who have been convicted of violent or serious felonies, specified sex offenses, or felony controlled substance offenses, as specified, 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 a school district, county office of education, or charter school
- 7 to perform the duties specified in Section 44814 or 44815, or to
- 8 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) A district shall not abolish any of its classified positions and
- 18 utilize volunteer aides, as authorized in this section, in lieu of
- 19 classified employees who are laid off as a result of the abolition
- 20 of a position. A district shall not refuse to employ a person in a

1 vacant classified position and use volunteer aides in lieu of filling
2 the classified position.

3 (c) It is the intent of the Legislature to permit school districts,
4 county offices of education, and charter schools to use volunteer
5 aides to enhance their educational programs but not to permit
6 displacement of classified employees nor to allow districts to utilize
7 volunteers in lieu of normal employee requirements.

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

10 35021.1. (a) (1) A school district, county office of education,
11 or charter school may request a local law enforcement agency to
12 conduct an automated records check of a prospective nonteaching
13 volunteer aide in order to ascertain whether the prospective
14 nonteaching volunteer aide has been convicted of a sex offense as
15 defined in Section 44010, a *felony* controlled substance offense as
16 defined in Section 44011, or a violent or serious felony as defined
17 in Section 45122.1. ~~A~~

18 (2) A person who would be prohibited from employment or
19 retention in employment *due to conviction of a sex offense or a*
20 *violent or serious felony* under Section 44836 or 45122.1 shall be
21 prohibited from serving as a nonteaching volunteer aide.

22 (3) *A person who has been convicted of a felony controlled*
23 *substance offense, as specified in subdivisions (a), (c), or (d) of*
24 *Section 44011, shall be prohibited from serving as a nonteaching*
25 *volunteer aide.*

26 (4) *A person who has been convicted of a controlled substance*
27 *offense in another state that would be classified as a felony*
28 *controlled substance offense in the State of California, as specified*
29 *in subdivisions (a), (c), or (d) of Section 44011, shall be prohibited*
30 *from serving as a nonteaching volunteer aide.*

31 (b) A plea or verdict of guilty, a finding of guilt by a court in a
32 trial without jury, or a conviction following a plea of nolo
33 contendere shall be deemed to be a conviction within the meaning
34 of this section. If the local law enforcement agency agrees to
35 provide that automated records check, the results therefrom shall
36 be returned to the requesting district, county office of education,
37 or charter school within 72 hours of the written request. A local
38 law enforcement agency may charge a fee to the requesting agency
39 not to exceed the actual expense to the law enforcement agency.

1 SEC. 3. Section 35021.2 of the Education Code is amended to
2 read:

3 35021.2. (a) When a school district, county office of education,
4 or charter school pursuant to Section 11105.3 of the Penal Code
5 requests from the Department of Justice records involving criminal
6 offenses committed by a prospective volunteer, the school district,
7 county office of education, or charter school may request that the
8 Department of Justice provide subsequent arrest notification service
9 pursuant to Section 11105.2 of the Penal Code. The Department
10 of Justice shall comply with a request made pursuant to this section.

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

16 SEC. 4. Section 44836 of the Education Code is amended to
17 read:

18 44836. (a) (1) The governing board of a school district shall
19 not employ or retain in employment persons in public school
20 service who have been convicted, or who have been convicted
21 following a plea of nolo contendere to charges, of any sex offense
22 as defined in Section 44010.

23 (2) If a person's conviction of a sex offense as defined in Section
24 44010 is reversed and the person is acquitted of the offense in a
25 new trial or the charges against him or her are dismissed, this
26 section does not prohibit his or her employment thereafter. If the
27 dismissal was pursuant to Section 1203.4 of the Penal Code and
28 the victim of the sex offense was a minor, this section does prohibit
29 the person's employment.

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

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

39 (c) Notwithstanding subdivision (b), the governing board of a
40 school district may employ a person convicted of a controlled

1 substance offense in a position requiring certification qualifications
2 if that person holds an appropriate credential issued by the
3 Commission on Teacher Credentialing.

4 (d) Notwithstanding Section 47610, this section applies to a
5 charter school.

6 ~~SEC. 5. Section 49024 of the Education Code is amended to~~
7 ~~read:~~

8 ~~49024. (a) Prior to assuming a paid or volunteer position to~~
9 ~~supervise, direct, or coach pupils in a pupil activity program~~
10 ~~sponsored by, or affiliated with, a school district, all noncertificated~~
11 ~~candidates shall obtain an Activity Supervisor Clearance Certificate~~
12 ~~from the Commission on Teacher Credentialing pursuant to~~
13 ~~subdivision (f) of Section 44258.7.~~

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

19 ~~(c) Volunteer supervisors for breakfast, lunch, or other~~
20 ~~nutritional periods pursuant to Sections 44814 and 44815, and~~
21 ~~nonteaching volunteer aides under the immediate supervision and~~
22 ~~direction of certificated personnel of the district pursuant to Section~~
23 ~~35021, shall not be required to obtain an Activity Supervisor~~
24 ~~Clearance Certificate.~~

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

28 ~~(e) Notwithstanding Section 47610, this section applies to a~~
29 ~~charter school.~~

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

31 ~~SEC. 5. Section 49024 of the Education Code is amended to~~
32 ~~read:~~

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

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

1 district or school booster club, including, but not limited to, cheer
2 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, shall not be required to obtain an Activity Supervisor
8 Clearance Certificate. For purposes of this section, a nonteaching
9 volunteer aide includes a parent volunteering in a classroom or on
10 a field trip or a community member providing noninstructional
11 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).

20 (f) *Notwithstanding Section 47610, this section applies to a*
21 *charter school.*

22 (f)

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