

AMENDED IN ASSEMBLY MAY 11, 2011  
AMENDED IN ASSEMBLY MARCH 24, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 13**

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**Introduced by Assembly Member Knight**

December 6, 2010

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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 work with pupils in a pupil activity program sponsored by a school district, *that* 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 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 a felony controlled substance offense *that involves a minor* 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, *but would provide that a person would not be prohibited from serving as a nonteaching volunteer aide solely because of a conviction of a controlled substance offense that involves a minor or a violent or serious felony 5 years after the date of that conviction.*

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.

1 (b) A district shall not abolish any of its classified positions and  
2 utilize volunteer aides, as authorized in this section, in lieu of  
3 classified employees who are laid off as a result of the abolition  
4 of a position. A district shall not refuse to employ a person in a  
5 vacant classified position and use volunteer aides in lieu of filling  
6 the classified position.

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

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

14 35021.1. (a) (1) A school district, county office of education,  
15 or charter school may request a local law enforcement agency to  
16 conduct an automated records check of a prospective nonteaching  
17 volunteer aide in order to ascertain whether the prospective  
18 nonteaching volunteer aide has been convicted of a sex offense as  
19 defined in Section 44010, a felony controlled substance offense  
20 ~~as defined in Section 44011~~ *that involves a minor as specified in*  
21 *Section 11353, 11353.1, 11353.4, 11353.5, 11353.7, 11354, 11361,*  
22 *11379.7, 11380, or 11380.1 of, or subdivision (b) or (c) of Section*  
23 *11353.6 of, the Health and Safety Code, or a violent or serious*  
24 *felony as defined in Section 45122.1.*

25 (2) ~~Except as specified in paragraph (5),~~ a person who would  
26 be prohibited from employment or retention in employment due  
27 to conviction of a sex offense or a violent or serious felony under  
28 Section 44836 or 45122.1 shall be prohibited from serving as a  
29 nonteaching volunteer aide.

30 (3) ~~Except as specified in paragraph (5),~~ a person who has  
31 been convicted of a felony controlled substance offense, ~~as~~  
32 ~~specified in subdivisions (a), (c), or (d) of Section 44011,~~ *that*  
33 *involves a minor as specified in Section 11353, 11353.1, 11353.4,*  
34 *11353.5, 11353.7, 11354, 11361, 11379.7, 11380, or 11380.1 of,*  
35 *or subdivision (b) or (c) of Section 11353.6 of, the Health and*  
36 *Safety Code shall be prohibited from serving as a nonteaching*  
37 *volunteer aide.*

38 (4) ~~Except as specified in paragraph (5),~~ a person who has  
39 been convicted of a controlled substance offense *that involves a*  
40 *minor* in another state that would be classified as a felony

1 controlled substance offense in the State of California, as specified  
 2 in ~~subdivisions (a), (c), or (d) of Section 44011~~ *Section 11353,*  
 3 *11353.1, 11353.4, 11353.5, 11353.7, 11354, 11361, 11379.7,*  
 4 *11380, or 11380.1 of, or subdivision (b) or (c) of Section 11353.6*  
 5 *of, the Health and Safety Code, shall be prohibited from serving*  
 6 *as a nonteaching volunteer aide.*

7 *(5) A person who has been convicted of a felony controlled*  
 8 *substance offense that involves a minor as specified in Section*  
 9 *11353, 11353.1, 11353.4, 11353.5, 11353.7, 11354, 11361,*  
 10 *11379.7, 11380, or 11380.1 of, or subdivision (b) or (c) of Section*  
 11 *11353.6 of, the Health and Safety Code, or a person who has been*  
 12 *convicted of a controlled substance offense that involves a minor*  
 13 *in another state that would be classified as a felony controlled*  
 14 *substance offense in the State of California, as specified in Section*  
 15 *11353, 11353.1, 11353.4, 11353.5, 11353.7, 11354, 11361,*  
 16 *11379.7, 11380, or 11380.1 of, or subdivision (b) or (c) of Section*  
 17 *11353.6 of, the Health and Safety Code, or a person who has been*  
 18 *convicted of a violent or serious felony under Section 45122.1*  
 19 *shall not be prohibited, solely because of that conviction, from*  
 20 *serving as a nonteaching volunteer aide, five years after the date*  
 21 *of that conviction.*

22 (b) A plea or verdict of guilty, a finding of guilt by a court in a  
 23 trial without jury, or a conviction following a plea of nolo  
 24 contendere shall be deemed to be a conviction within the meaning  
 25 of this section. If the local law enforcement agency agrees to  
 26 provide that automated records check, the results therefrom shall  
 27 be returned to the requesting district, county office of education,  
 28 or charter school within 72 hours of the written request. A local  
 29 law enforcement agency may charge a fee to the requesting agency  
 30 not to exceed the actual expense to the law enforcement agency.

31 SEC. 3. Section 35021.2 of the Education Code is amended to  
 32 read:

33 35021.2. (a) When a school district, county office of education,  
 34 or charter school pursuant to Section 11105.3 of the Penal Code  
 35 requests from the Department of Justice records involving criminal  
 36 offenses committed by a prospective volunteer, the school district,  
 37 county office of education, or charter school may request that the  
 38 Department of Justice provide subsequent arrest notification service  
 39 pursuant to Section 11105.2 of the Penal Code. The Department  
 40 of Justice shall comply with a request made pursuant to this section.

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

6 SEC. 4. Section 44836 of the Education Code is amended to  
7 read:

8 44836. (a) (1) The governing board of a school district shall  
9 not employ or retain in employment persons in public school  
10 service who have been convicted, or who have been convicted  
11 following a plea of nolo contendere to charges, of any sex offense  
12 as defined in Section 44010.

13 (2) If a person's conviction of a sex offense as defined in Section  
14 44010 is reversed and the person is acquitted of the offense in a  
15 new trial or the charges against him or her are dismissed, this  
16 section does not prohibit his or her employment thereafter. If the  
17 dismissal was pursuant to Section 1203.4 of the Penal Code and  
18 the victim of the sex offense was a minor, this section does prohibit  
19 the person's employment.

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

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

29 (c) Notwithstanding subdivision (b), the governing board of a  
30 school district may employ a person convicted of a controlled  
31 substance offense in a position requiring certification qualifications  
32 if that person holds an appropriate credential issued by the  
33 Commission on Teacher Credentialing.

34 (d) Notwithstanding Section 47610, this section applies to a  
35 charter school.

36 SEC. 5. Section 49024 of the Education Code is amended to  
37 read:

38 49024. (a) Prior to assuming a paid or volunteer position to  
39 work with pupils in a pupil activity program sponsored by a school  
40 district, all noncertificated candidates shall obtain an Activity

1 Supervisor 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 a school district  
4 includes, but is not limited to, scholastic programs, interscholastic  
5 programs, and extracurricular activities sponsored by a school  
6 district or school booster club, including, but not limited to, cheer  
7 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, shall not be required to obtain an Activity Supervisor  
13 Clearance Certificate. For purposes of this section, a nonteaching  
14 volunteer aide includes a parent volunteering in a classroom or on  
15 a field trip or a community member providing noninstructional  
16 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 (f) Notwithstanding Section 47610, this section applies to a  
26 charter school.

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