

AMENDED IN ASSEMBLY APRIL 6, 2010
AMENDED IN ASSEMBLY MARCH 16, 2010
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2034

Introduced by Assembly Member Knight
(Principal coauthor: Senator Runner)

February 17, 2010

An act to ~~add Section 44836.5 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 2034, as amended, Knight. Public school volunteers: persons convicted of sex or controlled substance offenses.

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 establish the Safe School Volunteers Program, under which the governing board of a school district that opted, as prescribed, on or before June 30, 2011, to participate would be required, on and after July 1, 2011, to perform, or arrange for the performance of, background checks for persons, other than pupils of that district, who seek to voluntarily participate in any district activities. The bill would specify that each of these provisions apply to charter schools. The bill would also prohibit persons who have been convicted of the designated sex or controlled substance offenses, and who have not been subsequently acquitted or had the charges against them dismissed, from voluntarily participating in activities of that district serving as nonteaching volunteer aides.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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

1 of the district, except as provided in Section 3364.5 of the Labor
2 Code.

3 (b) No district may abolish any of its classified positions and
4 utilize volunteer aides, as authorized herein, in lieu of classified
5 employees who are laid off as a result of the abolition of a position.
6 A district shall not refuse to employ a person in a vacant classified
7 position and use volunteer aides in lieu of filling the classified
8 position.

9 (c) It is the intent of the Legislature to permit school districts
10 to use volunteer aides to enhance its educational program but not
11 to permit displacement of classified employees nor to allow
12 districts to utilize volunteers in lieu of normal employee
13 requirements.

14 *SEC. 2. Section 35021.1 of the Education Code is amended to*
15 *read:*

16 35021.1. (a) A school district ~~or~~, county office of education,
17 *or a charter school* may request that a local law enforcement
18 agency conduct an automated records check of a prospective
19 nonteaching volunteer aide in order to ascertain whether the
20 prospective nonteaching volunteer aide has been convicted of any
21 sex offense as defined in Section 44010 ~~or~~, *controlled substance*
22 *offense as defined in Section 44011, or a violent or serious offense*
23 *as defined in Section 45122.1. A person who would be prohibited*
24 *from employment or retention in employment under Section 44836*
25 *or 45122.1 shall be prohibited from serving as a nonteaching*
26 *volunteer aide.*

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

36 *SEC. 3. Section 35021.2 of the Education Code is amended to*
37 *read:*

38 35021.2. (a) When a school district ~~or~~, county office of
39 education, *or charter school* pursuant to Section 11105.3 of the
40 Penal Code requests from the Department of Justice records

1 involving criminal offenses committed by a prospective volunteer,
2 the school district or county office of education may request that
3 the Department of Justice provide subsequent arrest notification
4 service pursuant to Section 11105.2 of the Penal Code. The
5 Department of Justice shall comply with a request made pursuant
6 to this section.

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

12 *SEC. 4. Section 44836 of the Education Code is amended to*
13 *read:*

14 44836. (a) (1) The governing board of a school district shall
15 not employ or retain in employment persons in public school
16 service who have been convicted, or who have been convicted
17 following a plea of nolo contendere to charges, of any sex offense
18 as defined in Section 44010.

19 (2) If a person's conviction of a sex offense as defined in Section
20 44010 is reversed and the person is acquitted of the offense in a
21 new trial or the charges against him or her are dismissed, this
22 section does not prohibit his or her employment thereafter. If the
23 dismissal was pursuant to Section 1203.4 of the Penal Code and
24 the victim of the sex offense was a minor, this section does prohibit
25 the person's employment.

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

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

35 (c) Notwithstanding subdivision (b), the governing board of a
36 school district may employ a person convicted of a controlled
37 substance offense in a position requiring certification qualifications
38 if that person holds an appropriate credential issued by the
39 Commission on Teacher Credentialing.

1 (d) Notwithstanding Section 47610, this section applies to a
2 charter school.

3 SEC. 5. Section 49024 of the Education Code is amended to
4 read:

5 49024. (a) Prior to assuming a paid or volunteer position to
6 supervise, direct, or coach a pupil activity program sponsored by,
7 or affiliated with, a school district, all noncertificated candidates
8 shall obtain an Activity Supervisor Clearance Certificate from the
9 Commission on Teacher Credentialing pursuant to subdivision (f)
10 of Section 44258.7.

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

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

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

25 (e) Notwithstanding Section 47610, this section applies to a
26 charter school.

27 (e)

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

29 SECTION 1. ~~Section 44836.5 is added to the Education Code,~~
30 ~~to read:~~

31 ~~44836.5. (a) The Safe School Volunteers Program is hereby~~
32 ~~established.~~

33 ~~(b) The governing board of a school district may opt to~~
34 ~~participate in the Safe School Volunteers Program by enacting a~~
35 ~~resolution to that effect at a regularly scheduled public meeting~~
36 ~~on or before June 30, 2011.~~

37 ~~(c) On and after July 1, 2011, a school district that has opted to~~
38 ~~participate in the Safe School Volunteers Program shall perform,~~
39 ~~or arrange for the performance of, background checks for persons,~~
40 ~~other than pupils of that district, who seek to voluntarily participate~~

1 in any district activities. Any person who would be prohibited from
2 employment or retention in employment under Section 44836 shall
3 also be prohibited from voluntary participation in any activities of
4 the district under this section.

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