

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

AMENDED IN ASSEMBLY MARCH 16, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2034**

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

February 17, 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 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 specify that each of these provisions ~~apply~~ *applies* 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 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) No district may abolish any of its classified positions and  
18 utilize volunteer aides, as authorized herein, in lieu of classified  
19 employees who are laid off as a result of the abolition of a position.  
20 A district shall not refuse to employ a person in a vacant classified  
21 position and use volunteer aides in lieu of filling the classified  
22 position.

1 (c) It is the intent of the Legislature to permit school districts  
2 to use volunteer aides to enhance its educational program but not  
3 to permit displacement of classified employees nor to allow  
4 districts to utilize volunteers in lieu of normal employee  
5 requirements.

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

8 35021.1. (a) A school district, county office of education, or  
9 a charter school may request that a local law enforcement agency  
10 conduct an automated records check of a prospective nonteaching  
11 volunteer aide in order to ascertain whether the prospective  
12 nonteaching volunteer aide has been convicted of ~~any~~ a sex offense  
13 as defined in Section 44010 a, controlled substance offense as  
14 defined in Section 44011, or a violent or serious offense as defined  
15 in Section 45122.1. A person who would be prohibited from  
16 employment or retention in employment under Section 44836 or  
17 45122.1 shall be prohibited from serving as a nonteaching volunteer  
18 aide.

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

28 SEC. 3. Section 35021.2 of the Education Code is amended to  
29 read:

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

39 (b) This section also applies to a person, firm, association,  
40 partnership, or corporation offering or conducting private school

1 instruction on the elementary or high school level that requests,  
2 pursuant to Section 11105.3 of the Penal Code, records involving  
3 criminal offenses committed by a prospective volunteer.

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

6 44836. (a) (1) The governing board of a school district shall  
7 not employ or retain in employment persons in public school  
8 service who have been convicted, or who have been convicted  
9 following a plea of nolo contendere to charges, of any sex offense  
10 as defined in Section 44010.

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

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

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

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

32 (d) Notwithstanding Section 47610, this section applies to a  
33 charter school.

34 SEC. 5. Section 49024 of the Education Code is amended to  
35 read:

36 49024. (a) Prior to assuming a paid or volunteer position to  
37 supervise, direct, or coach a pupil activity program sponsored by,  
38 or affiliated with, a school district, all noncertificated candidates  
39 shall obtain an Activity Supervisor Clearance Certificate from the

1 Commission on Teacher Credentialing pursuant to subdivision (f)  
2 of Section 44258.7.

3 (b) A pupil activity program sponsored by, or affiliated with, a  
4 school district includes, but is not limited to, scholastic programs,  
5 interscholastic programs, and extracurricular activities sponsored  
6 by a school district or school booster club, including, but not  
7 limited to, cheer 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 under the immediate supervision and  
11 direction of certificated personnel of the district pursuant to Section  
12 35021, shall not be required to obtain an Activity Supervisor  
13 Clearance Certificate.

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

17 (e) Notwithstanding Section 47610, this section applies to a  
18 charter school.

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