

AP 7337 FINGERPRINTING

References:

Education Code Sections 87013 and 88024;
Penal Code Sections 11102.2 and 11077.1

NOTE: *It is legally advised to make fingerprinting mandatory as to all employees. Where Live Scan is not available regionally, Districts should continue to use the language of Education Code Sections 87013 and 88024. Districts should note that Live Scan is the Department of Justice's preferred method for the submission of fingerprints.*

The following language in red ink is excerpted from statute.

The Chief Human Resources Officer will designate one or more employees to receive, store, disseminate, and destroy criminal records furnished by the California Department of Justice and/or the Federal Bureau of Investigation and to serve as the contact for the California Department of Justice for related issues. Any such employee must be confirmed by the California Department of Justice as required by law and pursuant to California Department of Justice procedures. The Chief Human Resources Officer will notify the California Department of Justice by March 1 of each year beginning on March 1, 2012, of the individuals designated.

All candidates for academic, classified, and contract positions shall be required to have fingerprints taken via Live Scan prior to Board approval for employment. The electronic fingerprints and applicable fees will be forwarded to the Department of Justice and/or the Federal Bureau of Investigation. The Department of Justice will forward any findings to the Human Resources Office. Human Resources will evaluate findings to ensure all criminal activity was reported, that no offense would disqualify the applicant from employment, and that no conviction would render the candidate unfit for the position.

The Chief Human Resources Officer will ensure that criminal history record information is destroyed once the District's business need for the information is fulfilled.

NOTE: *The red ink signifies language that is legally required and recommended by the Policy and Procedure Service and its legal counsel. The language in green ink was added during the review by Wyman, David, and Kit on August 13, 2013. The language in blue ink was added by David on 3/16/15.*

Date Approved:

*(This is a new procedure recommended by the
Policy and Procedure Service)*

Legal Citations for AP 7337

Education Code Sections 87013 and 88024

87013. Whenever a community college district employs a person in an academic position and that person has not previously been employed by a school or community college district in this state, the governing board may, within 10 working days of the person's date of employment, require the individual to have duplicate personal identification cards upon which shall appear the legible fingerprints and a personal description of the employee prepared by a local law enforcement agency having jurisdiction in the area of the district. The law enforcement agency shall transmit the cards, together with the fee hereinafter specified, to the Department of Justice. At the earliest opportunity following its receipt of the identification cards, the Department of Justice shall furnish the law enforcement agency submitting the employee's fingerprints a complete criminal history of the individual if one appears in the department's files. The local law enforcement agency shall, in turn, excerpt from the history all information regarding any convictions of the employee and shall forward that information to the governing board of the district.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board may provide the means whereby the identification cards may be completed and may charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of the fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars (\$2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards.

Any provision of law to the contrary notwithstanding, the Department of Justice, shall, as provided in this section, furnish, upon application of a local public law enforcement agency all information pertaining to any person required to submit personal identification cards pursuant to this section if there is a record of the person in its office.

88024. The governing board of any community college district, within 10 working days of date of employment, shall require each person to be employed, or employed in, a nonacademic position to have two 8 X 8 fingerprint cards bearing the legible rolled and flat impressions of that person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the district, which agency shall transmit the cards, together with the fee hereinafter specified, to the Department of Justice; except that a district, or districts with a common board, having a

full-time equivalent student of 60,000 or more may process the fingerprint cards if the district so elects. "Local public law enforcement agency," as used in this section and in Section 88025, includes a community college district with full-time equivalent students of 60,000 or more. Upon receiving the identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the department and shall forward that information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date. The Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when the cards are to be forwarded to it for processing. Districts that previously have submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty, or a finding of guilt by a court in a trial without a jury or forfeiture of bail, is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application.

The amount of the fee shall be forwarded to the Department of Justice with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars (\$2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. The additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, the fee may be reimbursed to the applicant. Funds not reimbursed to applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. This section shall not apply to a district, or districts with a common board, that has an average daily attendance of 400,000 or greater, or to a cc district wholly within a city and county, unless the governing board of the district or districts, by rule, provides for adherence to this section.