
REMINDER: New Fingerprinting Requirements for All Contracts Became Effective January 1, 2022

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Written by:

Arne Sandberg
Partner
Walnut Creek

Andrea Ortega
Associate
Walnut Creek Office

Due to lingering questions in the education community, we are sending this Client News Brief as a reminder concerning new fingerprinting and criminal background check criteria for employees of any entity that has a contract with a local educational agency (“LEA”). The 2021-2022 Education Omnibus Budget Trailer Bill (AB 130) was signed by Governor Newsom on July 9, 2021. Effective January 1, 2022, the requirements of Education Code section 45125.1 were broadened and, with limited exceptions, now apply to all contracts.

Background

Formerly, Education Code section 45125.1 required contracting entities to submit employee fingerprints to the Department of Justice (DOJ) if the entity or its employees may have contact with students. However, background checks were not required if a school district determined that the entity or its employees would have only “limited contact” with students. In addition, the statute only applied to a few types of contracts.

New Legal Requirements

Effective January 1, 2022, all contracting entities that have contracts with a school district, county office of education, or charter school (each an LEA), where the entity or its employees will *interact with students outside of the immediate supervision and control of the student’s parent or guardian or a school employee*, must ensure that they have a valid criminal records summary for the contracting entity and any of its employees who may interact with students outside of the immediate supervision and control of a parent, guardian or school employee. The contracting entity must provide any information about arrests and convictions immediately to the LEA.

The contracting entity may not permit an employee to interact with students until it is determined that the employee has not been convicted of a violent or serious felony. The contracting entity must also certify in writing to the LEA

that neither the contracting entity nor its employees, who are required to have background checks and who may interact with students, have been convicted of a violent or serious felony.

This new broader legal standard of “interaction” replaces the former standard of “more than limited contact.” However, limited exceptions remain for emergency or exceptional situations, such as when the health or safety of students is endangered or when repairs are needed to make a school facility safe and habitable.

Additionally, Education Code section 45125.2 still uses the “limited contact” standard for construction, reconstruction, rehabilitation, and repair contracts, exempting construction contractors from Education Code section 45125.1, so long as the contracting entity uses one of the three specified methods outlined in Education Code section 45125.2.

Takeaways

Except for contracts for construction, reconstruction, rehabilitation and repairs, LEAs must ensure that all contracts entered on or after January 1, 2022, where the contracting entity or its employees interact with students outside the immediate supervision of a parent/guardian or school employee, meet the new fingerprinting/criminal background check requirements in Education Code section 45125.1. Furthermore, LEAs must ensure that the contracting entity submits the required certification prior to commencing performance.

If you have any questions about AB 130 or would like to discuss any legal matters pertaining to the new fingerprinting requirements, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.