



On the Alert!

Date: February 2, 2022
Attention: ASCIP Members
Affected: Administrators, Legal, Risk Management, Faculty & Staff
Applicability: K-12 & Charter Schools

NEW FINGERPRINTING REQUIREMENTS

Effective January 1, 2022, the Education Omnibus Budget Trailer Bill (AB 130) replaced Education Code section 45125.1 with **new fingerprinting and criminal background check criteria for contracting agencies**. **All contracts entered into by school districts and charter schools, where the contracting agency or its employees will interact with students outside the immediate supervision and control of the student's parent or guardian or a school employee, must require a valid criminal records summary for the contracting agency and its employees.** This includes contracts for off-campus services, such as virtual/online services, where the student will not be under the direct supervision of a parent/guardian or school employee. **AB 130 also broadened the application of this statute to all contracts, regardless of type, and removed the previous "limited contact" exception.** The only current exceptions to the new fingerprinting requirement are for emergency/exceptional situations, as defined under Education Code section 45125.1, and for construction, reconstruction, rehabilitation and repair contracts, as permitted under Education Code section 45125.2.

Under the new statute, when the contracting entity performs the criminal background check, it is required to immediately provide any subsequent arrest and conviction information it receives to the district or charter school that it is contracting with. The contracting agency must certify in writing to the district or charter school that neither the agency nor its employees, who will have contact with students outside the immediate supervision and control of the student's parent/guardian or school employee, have been convicted of a felony.

Sources:

<https://www.theguardian.com/society/2022/jan/13/2021-was-worst-year-on-record-for-online-child-sex-abuse-says-iwf>
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB130

Online Child Sexual Abuse On the Rise

The recent legislative changes mandating online service providers in education to complete fingerprinting and criminal background checks are timely and critical to student safety. According to the Internet Watch Foundation (IWF), 2021 is being touted "as the worst year on record for online child sexual abuse." The IWF recently reported a threefold increase in online sexual abuse imagery featuring 7-10-year-olds while 11-13-year-olds are increasingly being manipulated to record their abuse and post it online. Experts are finding fifteen times as much child sexual abuse material online compared to a decade ago. "Children are being targeted, approached, groomed and abused by criminals on an industrial scale," said Susan Hargreaves, the IWF Chief Executive. As districts and charter schools continue expanding the pathways of distance learning, it is imperative that we recognize how extremely vulnerable our students are to predators in both online and in-person learning environments. While online learning opportunities increase for students, it is apparent that this legislation is just one safeguard of many that is needed to ensure our students are safe in their educational pursuits.

ASCIP has many vetted resources and trainings available for members to target child sexual abuse prevention through our CAARE (Child Anti-Assault Response & Education) Program. We encourage you to email cisneros@ascip.org for more information.

Action Items

Districts and charter schools must ensure that all current contracts where the contracting agency or its employees have student contact outside the immediate supervision of a parent/guardian or school employee meet the new fingerprinting/criminal background check requirements. Districts and charter schools must also ensure that contract templates are updated and future contracts include these new requirements. ASCIP can assist with providing sample language and contract templates.

Please contact your ASCIP Risk Services Consultant or our Risk Services team at RM_Info@ascip.org for questions or to discuss further.