

# Lucia Mar Unified School District

## Human Resources

### Fingerprint Mandate

#### Updated Policies & Procedures – Effective July 1, 2015

*Education code section 44237 requires that every person in a school district who is an applicant for employment in a position requiring contact with minor pupils to complete fingerprinting and background checks to the Department of Justice for the purpose of obtaining criminal record information. The term “employee” under this section is defined as those who are employed on a regular, full-time, part-time, or seasonal basis.*

*In response to a situation involving a temporary employee and a high school student, the legislature enacted AB 1610 (Ortiz) and 1612 (Melby) on an urgency basis, effective September 30, 1997. In 1998, additional laws seeking to further reduce the possibility for persons who have been convicted of “serious” or “violent” felonies will be in contact with pupils was approved and enacted by legislature. Current law additionally prohibits the retention of current employees (certificated and classified) who have not yet obtained permanent status, and prohibits the employment of new certificated employees, if any of these has been convicted of a serious or violent felony.*

*The District is focused on the goal of protecting pupils and eliminating district exposure to liability. The issues of safety, liability, and political concerns are taken into consideration regarding fingerprint requirements or prohibitions to employees and “volunteers”.*

### NEWLY HIRED CLASSIFIED EMPLOYEES

1. New classified employees hired **must first** be fingerprinted (Live Scan) in the District’s Human Resources Department, and the District’s Custodial of Records **must receive** a report from DOJ before they are determined to be cleared to be employed and come into contact with pupils.
2. There is no exemption for classified employees hired in a temporary and/or substitute position for less than a year. The **only exemption is for pupils** (less than 18 years of age) employed at the school they attend, in part-time, temporary jobs.
3. DOJ/FBI is required to process fingerprints (Live Scan) for potential classified employee candidates that are submitted to them by the Human Resources Department. Processing time is **generally 2 to 5 working days**. However, if a candidate has any prior arrest records or convictions, **there will be at least a 30 day delay**.
4. DOJ/FBI will notify Human Resources if there will be any type of delay to process the candidate’s fingerprint submission. The candidate is not eligible to begin work until the fingerprints have finalized the process with DOJ/FBI.
5. DOJ/FBI will determine if the applicant has a serious/violent conviction and alert the Custodial of Records with a criminal history report.
6. **No** classified candidate will be hired with a serious or violent felony conviction.
7. Classified candidates who do not disclose convictions on their application, but a criminal history report is received (ex: DUI, misdemeanor), the candidate will have been deemed to have falsified his/her application and **will not be hired**.

8. If a criminal history sheet has been received, the Human Resources department must determine if the District is willing to employ an applicant who has a criminal history involving lesser crimes. (Education Code section 45123 provides that no person convicted of a sex offense may be employed, and no person convicted of a drug offense may be employed unless the governing board determines that the individual has been rehabilitated for at least five years following conviction.)
9. Any potential future subsequent arrest notifications and pending criminal proceedings will be received in Human Resources.
10. Any employees who were previously fingerprinting in the San Luis Obispo County Office of Education Fingerprint Consortium **must** be fingerprinted again to become active in the District's database when hired for a position.
11. **Fingerprints from SLOCOE cannot be transferred.** The District cannot transfer fingerprints to other districts, county offices, or employers.

### **CURRENT NON-PERMANENT CLASSIFIED EMPLOYEES**

1. California law prohibits the retention of current temporary, substitute and probationary employees with serious/violent felony convictions.
2. If the District receives a criminal history report from DOJ/FBI regarding a conviction for a serious or violent felony, the employee is immediately placed on unpaid leave. The employee may contact DOJ to dispute the information. This is not the responsibility of the District.
3. The District must follow appropriate disciplinary/termination procedures as outlined in the Education Code regarding employment status and serious/violent felony convictions.
4. If DOJ/FBI subsequently advises the District in writing that its earlier criminal history report was erroneous and that in fact the employee has no record of conviction for serious or violent felony, the employee can be reinstated.

### **NEWLY HIRED CERTIFICATED EMPLOYEES**

1. New certificated employees hired **must first** be fingerprinted (Live Scan) in the District's Human Resources Department, and the District's Custodial of Records **must receive** a report from DOJ before they are determined to be cleared to be employed and come into contact with pupils.
2. There is no exemption for certificated employees hired in a temporary and/or substitute position for less than a year. The **only exemption is for pupils** (less than 18 years of age) employed at the school they attend, in part-time, temporary jobs.
3. DOJ/FBI is required to process fingerprints (Live Scan) for potential certificated employee candidates that are submitted to them by the Human Resources Department. Processing time is **generally 2 to 5 working days**. However, if a candidate has any prior arrest records or convictions, **there will be at least a 30 day delay**.
4. DOJ/FBI will notify Human Resources if there will be any type of delay to process the candidate's fingerprint submission. The candidate is not eligible to begin work until the fingerprints have finalized the process with DOJ/FBI.

5. DOJ/FBI will determine if the applicant has a serious/violent conviction and alert the Custodial of Records with a criminal history report.
6. No certificated candidate will be hired with a serious or violent felony conviction.
7. Certificated candidates who do not disclose convictions on their application, but a criminal history report is received (ex: DUI, misdemeanor), the candidate will have been deemed to have falsified his/her application and **will not be hired.**
8. If a criminal history sheet has been received, the Human Resources department must determine if the District is willing to employ an applicant who has a criminal history involving lesser crimes. (Education Code section 45123 provides that no person convicted of a sex offense may be employed, and no person convicted of a drug offense may be employed unless the governing board determines that the individual has been rehabilitated for at least five years following conviction.)
9. Any potential future subsequent arrest notifications and pending criminal proceedings will be received in Human Resources.
10. Any employees who were previously fingerprinting in the San Luis Obispo County Office of Education Fingerprint Consortium **must** be fingerprinted again to become active in the District's database when hired for a position.
11. **Fingerprints from SLOCOE cannot be transferred.** The District cannot transfer fingerprints to other districts, county offices, or employers.

## **COMMON SUBSTITUTE LISTS FOR CERTIFICATED AND CLASSIFIED**

1. The Lucia Mar Unified School District **does not participate** in any common substitute list with other districts or county offices.
2. **All** substitutes must be fingerprinted and cleared in the District's database to be considered eligible to work.

## **APPLICANTS FOR TEMPORARY TEACHING CERTIFICATES (TCC)**

1. A person who meets the requirements for and does not possess a teaching credential may, pending approval of the application, seek a temporary certificate in order to teach until the credential is officially issued by the California Commission on Teacher Credentialing (CCTC). County offices of education are responsible for issuing temporary teaching certificates.
2. A person who submits credentialing paperwork to the Credentials Analyst at the District, may also request a TCC to be completed and authorized to begin working under a Temporary Certificate until processing is completed at CCTC.
3. The **District must sign the fingerprint affidavit** for the TCC to be considered "complete" and eligible to send to the county for final approval.

## CONTRACTORS

1. California State law requires any employer who provides certain services under contract to school districts to certify that no employee who renders those services and who may come into contact with pupils has been convicted of a serious or violent felony. **The District receiving the service is not required or authorized to check the records of these employees.**
2. When the District contracts with another District or entity to provide the listed services, the **original employer** is required to make the certification with regard to the employees assigned to the contract. For example, a school district that provides mentoring services to a neighboring district will have to certify that its mentors who are assigned to the contract are free of the prohibited convictions.
3. **An exception** is provided to entities providing services in emergency or exception situations, such as when pupil health or safety is endangered or repairs are needed to make schools safe and habitable. These exceptions should **not** be invoked without first **consulting with Human Resources and legal counsel.**
4. Contractors are not required to provide a certification if the district/employer receiving the services determines the contractor's employees will have only limited contact with pupils. This determination should be based on such factors as the length of time the contractor's employees are on school grounds, whether pupils will be in their proximity, and whether the contractor's employees will be working alone or with others. Appropriate steps must be taken to protect the safety of any pupils who may come into contact with the contractor's employees (Example: district employee to be present, prohibit access to property areas where pupils are present). **The District shall select the proper safety measures and not the contractor.**
5. In some cases, such as occasional contracts such as delivery drivers for office supplies, certification is not practical. Instead, the district/school personnel need to take steps to ensure these contractor employees are away from pupils and, if necessary, to accompany them as they perform their work.
6. **General contractors** on construction jobs located on school sites are **required** to certify that their own employees working on site are free of serious/violent convictions. For construction on new sites, **where no pupils will be present, certification is not necessary.**
7. If a contractor certification is necessary because its employees may come into contact with pupils, **it is the responsibility of the contractor,** not the District to have employees fingerprinted.

## VOLUNTEERS

1. The District **requires that all volunteers** who will come into contact with pupils be fingerprinted with the Lucia Mar Unified School District.
2. Volunteers who were previously fingerprinted in the San Luis Obispo County Fingerprint Consortium are **required** to be fingerprinted again at the District, at their expense, to maintain their eligibility to continue volunteering.
3. Volunteers are held to the same standard as regular employees of the District.
4. Volunteers who do not disclose convictions on their Volunteer Database Form, but a criminal history report is received (ex: DUI, misdemeanor), the volunteer will have been deemed to have falsified his/her form and will **not be eligible to volunteer.**

5. If a criminal history sheet has been received, the Human Resources Department must determine if the District is willing to allow a volunteer who has a criminal history involving lesser crimes to come into contact with other pupils.
6. Any potential future subsequent arrest notifications and pending criminal proceedings will be received in Human Resources.
7. Parents who wish to drive to-and-from a fieldtrip, **and only participate** in a fieldtrip with **his/her child(ren) may** be waived of the fingerprint requirement for **a singular request**. However, the waiver request is determined by the Human Resources Department by what information is received on the Volunteer Data Form. The school site personnel must also **agree to allow such persons to have access to pupils under school employee supervision**.
8. If the type of field trip does not provide adequate supervision of a parent requesting a fingerprint waiver, the parent shall be determined to have a fingerprint clearance completed as a volunteer.
9. Penal Code Section 830.32 defines who is a peace officer. It defines that anyone who meets the qualifications under this section and is employed or volunteers in a school district is designated as school peace officer. Designated **school peace officers are not required to be fingerprinted** at the Lucia Mar Unified School District. However, he/she must provide proof each year (Example: Copy of badge/ID card) that he/she is **actively** serving as a peace officer when submitting volunteer paperwork.

### **AFTER SCHOOL PROGRAMS/AGENCIES**

1. After school programs and agencies not employed by the District are not required to be fingerprinted with the Lucia Mar Unified School District.
2. After school programs/agencies located on school sites are **required** to certify that their **own employees** working on site are free of serious/violent convictions. For sites, **where no pupils will be present, certification is not necessary**.

### **RECOMMENDATION LIST FOR OUTSIDE AGENCIES**

1. Oftentimes, pupils and parents receive a list of recommended services for outside agencies (Example: Senior Photographers). In order for an outside agency to be considered a "recommendation" from the school/district in a flyer/mailer, the outside agency must have the owner/business operator fingerprinted (Live Scan) in the Human Resources Department.
2. Once fingerprints have been cleared by the Human Resources Department, the proper personnel will be notified of approval to add the business owner/outside agency to an **approved list** as a school/district recommendation.
3. The Human Resources Department **advises school sites/departments to not recommend specific businesses as an "approved" list of preferred vendors if a background clearance has not been completed to ensure the recommendation as authentic and secure to prevent liability to the District.**

## SECURITY OF LAW ENFORCEMENT INFORMATION

1. All Criminal Offender Records Information (CORI) is only available to the designated Custodian of Records in the District.
2. The CORI is kept in a secure location, not in personnel files, and is not a public record.
3. The CORI is destroyed (shredded) once an employee has been hired. If an applicant has not been hired, or an employee has been dismissed because of this information, it may be kept until the processes in personnel actions have been completed.
4. **Employees/applicants/volunteers do not have the right to see CORI information.**
5. If an employee/applicant/volunteer wishes to dispute the record, he/she shall be directed to contact the DOJ. **The District is not responsible for this contact.**