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LEGAL UPDATE

December 8, 2009

To: Superintendents, Member School Districts (K-12)

From: Carl D. Corbin, Assistant General Counsel

**Subject: Supervisors of Pupil Activity Programs Must be Cleared by CCTC
Memo No. 32-2009**

As of July 1, 2010, Assembly Bill 1025 will require that noncertificated employees and volunteers who supervise, direct, or coach a pupil activity program that is sponsored by, or affiliated with, a school district obtain an Activity Supervisor Clearance Certificate ("ASCC") from the California Commission on Teacher Credentialing ("CCTC") prior to assuming a paid or voluntary position.

A "pupil activity program" includes, but is not limited to, "scholastic programs, interscholastic programs, and extracurricular activities sponsored by a school district or school booster club, including, but not limited to, cheer team, drill team, dance team, and marching band."¹

The CCTC is expected to begin accepting applications for an ASCC in January, 2010. The CCTC is also expected over the next few months to provide additional implementation information. The ASCC application will require the applicant to attest to being a person of good moral character, possess an identification card, and submit to a state and federal criminal record check. The fee for the ASCC is expected to be approximately \$106 per applicant with \$55 for the CCTC fee and \$51 for the fingerprint check by the California Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI"). Once the applicant has been cleared by the

¹ Education Code section 49024(b).

DOJ and FBI and is waiting for the ASCC from the CCTC, a temporary county certificate may be issued to allow the individual to immediately begin working.²

Specifically excluded from this new requirement are “[v]olunteer supervisors for breakfast, lunch, or other nutritional periods pursuant to Sections 44814 and 44815, and nonteaching volunteer aides under the immediate supervision and direction of certificated personnel of the district pursuant to Section 35021.”³ However, as described in Legal Update No. 13-2007, pursuant to board policy, districts may require that volunteers be fingerprinted.⁴

For your convenience, Assembly Bill 1025 is attached to this Legal Update.

Please contact any of the attorneys in any of our offices if you have questions regarding this or any other legal issue.

² Education Code section 49024(d).

³ Education Code section 49024(c).

⁴ Education Code sections 35021 and 35021.1.

Assembly Bill No. 1025

CHAPTER 379

An act to amend Section 44258.7 of, and to add Sections 44346.5 and 49024 to, the Education Code, relating to school employees and volunteers.

[Approved by Governor October 11, 2009. Filed with Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, Conway. Schools: employees and volunteers: Activity Supervisor Clearance Certificate.

Existing law permits qualified credentialholders to coach in a competitive sport upon authorization by action of the local governing board, as specified.

This bill would require a noncertificated candidate, commencing on July 1, 2010, 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, to obtain from the Commission on Teacher Credentialing an Activity Supervisor Clearance Certificate issued by the commission upon verification of the candidate's personal identification and verification that he or she meets specified requirements. The bill would require that each certificate be issued initially for a period of 5 years and provide that it may be renewed.

The bill would require the commission to submit specified information relating to applicants to the Department of Justice to obtain state and federal criminal history information prior to the issuance of a certificate, as specified, and require the commission to make that information available to the Department of Justice or the Federal Bureau of Investigation, upon request.

The bill would also authorize the commission to establish a fee for the certificate.

The people of the State of California do enact as follows:

SECTION 1. Section 44258.7 of the Education Code is amended to read:

44258.7. (a) The holder of a standard secondary credential who, prior to September 1, 1989, has taught successfully in a subject within the department of his or her academic major or minor for a minimum of three years, as verified by the employing school district, may receive a supplementary authorization in that subject upon application, payment of a fee, which shall not exceed one-half of the regular credential fee, and evidence that one of the following has been accomplished:

- (1) Successful completion, by September 1, 1989, of a minimum of 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in the subject.
- (2) The securing of a passing score on an examination in the subject approved by the Commission on Teacher Credentialing.

(3) Verification of competence in the subject matter by a subject area specialist not associated with the employing school district.

(b) A person who holds a teaching credential in a subject or subjects other than physical education may be authorized by action of the local governing board to coach one period per day in a competitive sport for which students receive physical education credit, provided that he or she is a full-time employee of the school district and has completed a minimum of 20 hours of first aid instruction appropriate for the specific sport.

(c) A teacher employed on a full-time basis who teaches kindergarten or any of grades 1 to 12, inclusive, and who has special skills and preparation outside of his or her credential authorization may, with his or her consent, be assigned to teach an elective course in the area of the special skills or preparation, provided that the assignment is first approved by a committee on assignments. For purposes of this subdivision an "elective course" is a course other than English, mathematics, science, or social studies. The membership of the committee on assignments shall include an equal number of teachers, selected by teachers, and school administrators, selected by school administrators.

(d) Assignments approved by the committee on assignments shall be for a maximum of one school year, but may be extended by action of the committee upon application by the schoolsite administrator and the affected teacher. All initial assignments or extensions shall be approved prior to the assignment or extension. Districts making assignments under this subdivision shall submit a plan to the county superintendent of schools which shall include, but need not be limited to, the following:

(1) Statements signed by the district superintendent and the president or chairperson of the district governing board, approving the establishment of the committee.

(2) Procedures for selection of the committee membership.

(3) Terms of office for committee members.

(4) Criteria for determining teachers' qualifications for these assignments.

(e) The Commission on Teacher Credentialing may develop and recommend general criteria that may be used by local committees on assignment in assessing a candidate's qualifications.

(f) The commission shall issue an Activity Supervisor Clearance Certificate to candidates serving in a position pursuant to subdivision (a) of Section 49024 upon verification of the candidate's personal identification and verification that the candidate meets all professional requirements pursuant to Sections 44339, 44340, 44341, and 44346.5. Each certificate shall be issued initially for a five-year period and may be renewed. The commission shall establish a fee for the Activity Supervisor Clearance Certificate.

SEC. 2. Section 44346.5 is added to the Education Code, to read:

44346.5. (a) The Commission on Teacher Credentialing shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all individuals, as described in subdivision (a) of Section 49024, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the individual is free on bail or on his or her recognizance pending trial or appeal.

(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this

section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the commission.

(c) The Department of Justice shall provide a state and federal level response to the commission pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(d) The commission shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for individuals described in subdivision (a) of Section 49024.

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

(f) (1) If a denial of an application for a certificate is due at least in part to the individual's state or federal criminal history record, the commission shall provide to the individual a copy of his or her criminal history record search response with the notice of the denial.

(2) The state or federal criminal history record search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(3) The criminal history record search response shall be provided in such a manner as to protect the confidentiality and privacy of the individual's criminal history record and the criminal history record search response shall not be made available by the commission to any school district or county office of education.

(4) The commission shall retain a copy of the individual's criminal history record search response, and the date and the address to which it was sent. The commission shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

SEC. 3. Section 49024 is added to the Education Code, to read:

49024. (a) 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, all noncertificated candidates shall obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing pursuant to subdivision (f) of Section 44258.7.

(b) A pupil activity program sponsored by, or affiliated with, a school district includes, but is not limited to, scholastic programs, interscholastic programs, and extracurricular activities sponsored by a school district or school booster club, including, but not limited to, cheer team, drill team, dance team, and marching band.

(c) Volunteer supervisors for breakfast, lunch, or other nutritional periods pursuant to Sections 44814 and 44815, and nonteaching volunteer aides under the immediate supervision and direction of certificated personnel of the district pursuant to Section 35021, shall not be required to obtain an Activity Supervisor Clearance Certificate.

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

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