

# **Administrative Regulation**

## **Maintenance Of Criminal Offender Records**

AR 4112.62 4212.62,4312.62

### **Personnel**

The Superintendent or designee shall ensure that criminal record background checks on employees or prospective employees are conducted through the Department of Justice (DOJ) and that any Criminal Offender Record Information (CORI) received is maintained in accordance with law.

(cf. 1240 - Volunteer Assistance)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

(cf. 4212.5 - Criminal Record Check)

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125) Once a hiring determination is made, the records shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

Any unauthorized release or reproduction of any criminal offender record or other violation of this administrative regulation may result in suspension, dismissal, and/or criminal or civil legal action.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

### **Custodian of Records**

The Superintendent shall designate an employee as custodian of records. Beginning July 1, 2011, any employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging an understanding of the laws prohibiting misuse of CORI. In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

The custodian of records shall be responsible for the security, storage, dissemination, and destruction of all CORI furnished to the district. He/she also shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

By March 1, 2012, and by March 1 of every year thereafter, the Superintendent or designee shall notify the DOJ of the district's designated custodian of records. In addition, the Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

## Interagency Agreements

The district shall submit an interagency agreement to the DOJ to establish authorization to submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)  
Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown. This record shall be available to the DOJ. (Education Code 44830.2, 45125.01)

### Legal Reference:

#### EDUCATION CODE

44332 Temporary certificate

44332.6 Criminal record check, county board of education

44346.1 Applicants for credential, conviction of a violent or serious felony

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Interagency agreements

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

49024 Activity Supervisor Clearance Certificates

#### PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11075-11081 Criminal record dissemination

11102.2 Criminal records: custodian

11105 State criminal history information; furnishing to authorized persons

11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence; availability to employer for applicants for positions with supervisory or disciplinary power over minors

11140-11144 Furnishing of state criminal history information

13300-13305 Local summary criminal history information

#### CODE OF REGULATIONS, TITLE 11

701-708 Criminal offender record information

### Management Resources:

WEB SITES

Office of the Attorney General, Department of Justice, Background Checks:

<http://www.ag.ca.gov/fingerprints>

(10/97 10/98) 7/10

**Policy**

**Adopted:** November 13, 2012

**FORTUNA UNION HIGH SCHOOL DISTRICT**

**Fortuna, California**

# Exhibit

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### Personnel

#### SAMPLE EMPLOYEE STATEMENT FORM USE OF CRIMINAL JUSTICE INFORMATION

As an employee/volunteer of Fortuna Union High School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records.

Penal Code 11142 and 13300 state:

"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Civil Code 1798.53, Invasion of Privacy, states:

"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."

#### CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- \*Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- \*Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- \*Penal Code 11143: Unauthorized person in possession (misdemeanor)
- \*California Constitution, Article I, Section 1 (Right to Privacy)
- \* Civil Code 1798.53, Invasion of Privacy
- \*Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
Name of District \_\_\_\_\_

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

Policy  
Adopted: November 13, 2012

FORTUNA UNION HIGH SCHOOL DISTRICT  
Fortuna, California