

On The Alert!

Date: August 23, 2017
Attention: ASCIP Members
Affected Department(s): Risk Management, Admin, Operations
Applicability: K-12 Districts and Charter Schools

BACKGROUND CHECKS, SOLE PROPRIETORS AND DISTRICT RISK

On July 21, 2017, Assembly Bill Number 949 ([AB 949](#)) amended Section 45125.1 of the Education Code to require that individuals operating as sole proprietors of an entity contracting with a District are employees of that District for background check purposes. Under such contracts, employees providing any of the following services who may have contact with pupils must submit their fingerprints to the Department of Justice for a background check:

1. School and classroom janitorial.
2. School-site administrative.
3. School-site grounds and landscape maintenance.
4. Pupil transportation.
5. School-site food-related.

Prior to AB 949, Section 45125.1 of the Education Code only requires an employee of an entity to undergo the required background check. AB 949 has now included sole proprietors of an entity to submit to a background check. This law is effective January 1, 2018.

NEXT STEPS:

ASCIP recommends that, prior to the effective date, Districts complete the following tasks:

1. Review current contracts in the five categories delineated above
2. Determine whether their current contractors are compliant
3. Modify the existing contracts, if necessary, to ensure compliance with the new law
4. Arrange for fingerprints and background checks of sole proprietors as necessary
5. Modify contracts and their accompanying documentation to comply with the new Education Code Section 45125.1 requirements on a going forward basis

Additionally, districts must take appropriate steps to protect the safety of any pupils that may come in contact with contracted employees and/or sole proprietors other than those listed above. Districts need to consider the totality of the circumstances, including length of time the contractors will be on school grounds, whether pupils will be in proximity to where the contractors will be working, and whether the contractors will be working by themselves or with others. District must ensure that these contracts also have fingerprinting and background check requirements.

ASCIP has sample contracts with appropriate language that adhere to Education Code Section 45125.1 requirements. These contracts can be accessed in the Risk Services Section of the ASCIP website. To access, click on the following link: <http://ascip.org/risk-services-with-new-items/sample-agreements-forms-3>

Please contact your ASCIP risk services consultant at (562) 404-8029 to discuss further.