



Activity Supervisor Clearance Certificate Update and Checklist

Education Code section 49024 requires noncertificated individuals who work with pupils in certain district programs to obtain an Activity Supervisor Clearance Certificate (ASCC) from the Commission on Teacher Credentialing prior to working with pupils. Due to numerous ambiguities and concerns regarding the scope of the law, on July 9, 2010, the Legislature passed Assembly Bill 346 to clarify the ASCC requirement.

Education Code section 49024 now provides in relevant part, “[p]rior to assuming a **paid or volunteer** position to work with pupils in a **pupil activity program sponsored by a school district**,” all noncertificated candidates must obtain an ASCC from the CTC. Under AB 346, a candidate is not required to obtain an ASCC if the school district requires the candidate to clear Department of Justice and Federal Bureau of Investigation background checks prior to assuming the position. Thus, school districts have total discretion to decide whether to require individuals that fall within the scope of AB 346 to obtain an ASCC or to undergo DOJ/FBI fingerprinting, in lieu of obtaining an ASCC.

Many questions have arisen as school districts have attempted to determine which volunteers, employees and student activities are subject to AB 346. The law contains many ambiguities to be resolved by local education agencies. To assist school districts in performing this analysis, we have developed the attached checklist.

We understand that the Legislature may issue further guidance clarifying the legislative intent of AB 346. We will keep you apprised of any significant developments. In the meantime, if you have any questions or would like assistance regarding a particular candidate, please call one of our five offices.

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This F3 NewsFlash is a summary only and not legal advice. We recommend that you consult with legal counsel to determine how this new law may apply to your specific facts and circumstances. Information on a free NewsFlash subscription can be found at www.fagenfriedman.com.

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**Checklist for determining when
Is an Activity Supervisor Clearance Certificate or Fingerprinting Required for a
Volunteer or Employee?**

SECTION I: Candidate

1. Is the Candidate noncertificated?

(This includes any person, whether paid or volunteer.)

YES ___ NO ___

2. Will the Candidate work with pupils?

(This includes any person that will be working alone with pupils, even on an occasional basis.)

YES ___ NO ___

Note: If the answer to **either** of the above questions is “No,” **stop here**; the Candidate is not required to obtain an ASCC or be fingerprinted prior to working with pupils. Otherwise, proceed to Question #3.

3. Will the Candidate be a volunteer supervisor for breakfast, lunch or nutritional periods?

YES ___ NO ___

4. Will the Candidate be a nonteaching volunteer aide under the immediate supervision and direction of certificated personnel?

YES ___ NO ___

5. Is the Candidate a parent volunteering in the classroom or on a field trip?

YES ___ NO ___

6. Is the Candidate a community member providing noninstructional services (e.g., giving a speech)?

YES ___ NO ___

Note: If the answer to **any** of Questions #3-6 is “Yes,” **stop here**; the Candidate is **not** required to obtain an ASCC or be fingerprinted. Otherwise, proceed to Question #7.

SECTION II: District-Sponsored Pupil Activity Program

7. Will the Candidate work in a “pupil activity program,” defined as a scholastic or interscholastic program or extracurricular activity?

(The law is intended to apply to student “activities” as that term is commonly understood. Examples include school clubs, mock trial, athletics, cheer team, band, etc. It is not generally intended to apply to activities run by a booster club, such as car washes or a bake sale, which are not typically considered to be school activities. Also, traditional educational/ instructional programs, such as special education aides working with pupils, are not “pupil activity programs.”)

YES ___ NO ___

Note: If the answer is “No,” **stop here**; the Candidate is **not** required to obtain an ASCC or be fingerprinted. Otherwise, proceed to Question #8.



8. Is the pupil activity program run directly by the District or a school booster club?

(This is intended to cover candidates that are hired by a booster club to work with students in a student activity program, such as athletic coaches. As stated above, it is not intended to apply to all booster club-volunteer run activities, such as car washes or a bake sale.)

YES ___ NO ___

Note: If the answer is “Yes,” **stop here**; the Candidate **must** obtain an ASCC or be fingerprinted. Otherwise, proceed to Question #9.

9. If the pupil activity program is run by a third party group, do any of the following factors apply, which could qualify the program as “school sponsored?”

Is the program run on school grounds? YES ___ NO ___

Will the school provide direct financial assistance or tangible resources, such as a grant, reduced or no-rent use of facilities, or lending of materials or supplies to the program? YES ___ NO ___

Will the school provide indirect financial assistance or intangible resources, such as recognition, promotion or advertisement, which could give the impression that the program is school sponsored? YES ___ NO ___

Do students from the school attend the program? YES ___ NO ___

Does the program utilize school staff? YES ___ NO ___

Any other school involvement in the program? YES ___ NO ___

Note: The law excludes third party groups that may run pupil activity programs, such as the Boys Scouts, parks and recreation programs, or other groups using school facilities pursuant to a joint use agreement. However, if the school has sufficient involvement in the activity, it may be deemed to be “school sponsored” and subject to AB 346 requirements. The law specifically leaves these determinations to the discretion of local education agencies.

If the above factors tend to weigh in favor of “Yes,” **stop here**; the Candidate **must** obtain an ASCC or be fingerprinted.

If the answer is “No,” the Candidate is **not** required obtain an ASCC or be fingerprinted.

In summary, it is important to remember that AB 346 is purposefully vague – numerous ambiguities were deliberately left in the law to be resolved by local education agencies. However, the overriding intent of AB 346 is to protect students. Thus, in making determinations about the implementation of the law, student safety should be the decisive factor.

Information in this Checklist is summary only and not legal advice. We advise you to consult with legal counsel to determine how this information may apply to your specific facts and circumstances.