



CALIFORNIA STATE UNIVERSITY, LONG BEACH ADMINISTRATIVE GUIDELINE

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| Subject: CRIMINAL RECORDS CHECK | |
| Departments: Staff Human Resources and Faculty Affairs | Reference No.: |
| Division: Campus | Issue Date: |
| References: | Revision Date: May 2009 |
| Web Links: http://www.calstate.edu/HRAdm/pdf2005/HR2005-10.pdf | Expiration Date: None |

I. Overview

In an effort to provide the safest possible environment for students, visitors, faculty, and staff, and enhance the security of physical resources, CSULB shall, consistent with the requirements of the law and prudent practices, conduct criminal records check on applicants or current employees who are under final consideration for a position that has been designated as security sensitive.

The campus recognizes that its need to investigate an employee's or prospective employee's criminal record must be balanced with the need to protect privacy. University policy and state and federal laws recognize the individual's right to privacy and prohibit campus employees and others from seeking, using, and disclosing personal information except within the scope of their assigned duties.

These guidelines do not apply to the screening of sworn and non-sworn employees of the University Police Department. Guidelines and standards for these individuals are contained in Government Code 1031 et. seq and enforced by the Commission on Peace Officer Standards and Training.

The term Criminal Records Check will be used throughout this document. The definition of this term, as used in this Administrative Guideline, is: A process, LiveScan, will capture images of a candidate's finger prints and compare them to the finger prints of people with convictions on file with either the California Department of Justice or the FBI.

II. Requirements

- A. It is the practice of CSULB to obtain criminal offender record information on:
1. An applicant who is under final consideration, following normal screening and selection processes, for a position that is designated as a security sensitive position.

2. A current employee who is under consideration for a transfer, promotion or reclassification from a non-security position to a position designated as a security sensitive position.
 3. A current employee who is under consideration for a transfer, promotion, or reclassification from one security sensitive position to another security sensitive position and on whom the institution did not previously obtain either criminal offender record information or criminal conviction record information.
 4. An external candidate for a non-security sensitive position that admits to a felony conviction and is selected as a final candidate.
- B. A criminal record check is not required on incumbent employees holding sensitive positions at the time this policy becomes effective, and employees in non-security sensitive positions shall not be subject to this guideline.
- C. Criminal offender record information obtained by University Police may be used only for the purpose of evaluating applicants for employment, reclassification and in managing business risks.
- D. This guideline does not automatically exclude from consideration for employment all individuals with felony convictions. CSULB shall in no way use this information to discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, pregnancy, age, disability or veteran's status.

III. Procedures

A. Responsible Parties:

1. Hiring Department

- Notifies Faculty Affairs/Staff Human Resources that a final candidate has been selected for a security sensitive position.
- The cost of the LiveScan will be borne by the hiring department.

2. University Police Department

- Conducts LiveScan process.
- Upon request provides the subjects of the criminal record checks with the forms needed to either request a summary of their record check results or to appeal to the DOJ regarding findings.

3. Staff Human Resources and or Faculty Affairs

- Assures that the candidates have been informed about the criminal records screening requirement and provides appropriate forms to the finalist(s) who will undergo the LiveScan process.
- Staff Human Resources/Faculty Affairs forwards screening results to the University Conviction Review Committee (UCRC) when an individual has a felony conviction on the criminal record check results.
- Maintains confidentiality of criminal record check results.
- Serves as the Office of Record for files concerning criminal record checks.
- Consults with departments about policy interpretation.
- Provides feedback to candidates/employees whenever there is a finding and the University Conviction Review Committee (UCRC) makes a hiring/transfer decision based on those results.

4. University Conviction Review Committee (UCRC)

- Is appointed by the President or the President's designee.
- Initially this committee consists of the Associate Vice President of Academic Affairs, Associate Vice President of Human Resource Management and the University Police Chief.
- Reviews only criminal records checks which reveal felony convictions and promptly determines whether such convictions disqualify individuals from sensitive positions.
- Reviews and updates the list of security sensitive positions.

IV. Guidelines

- A. The following is a guide to help identify security sensitive positions subject to criminal records checks.

Categories:

1. Vice President, Associate VP of Finance, Controller, Bursar, Finance and Accounting positions at the direction of the Associate Vice President of Finance Management; personnel in the Administrator IV classification, and other management positions at the discretion of the President.
2. Positions that have responsibility for providing child-care, working in a child-care facility or have access to a child care facility in the course of their duties.
3. Positions that routinely require performing job duties in the presence of a minor in a confined room, vehicle or work space without the presence of another adult; or being in the presence of a minor outside the view of another adult within 30 feet. Positions involving work with minors who are not enrolled students of the University.
4. Healthcare providers/practitioners or employees working in a healthcare setting.
5. Positions with unrestricted entry access to dormitories or student housing.
6. A position requiring possession of a university grand master key, building master key with access to residences and certain other facilities. (May include custodial services, Residential and Student Services employees.)
7. Positions that physically handle \$1,000 dollars in cash/credit cards or more from a third party as a routine part of their job duties.
8. An external candidate for a non-security sensitive position that admits to a felony conviction and is selected as a final candidate.
9. Positions with physical or administrative access to critical information systems. Administrative users of information systems with access to security sensitive information.

V. Procedures for Criminal Record Checks on Candidates

- A. Effective the date of the adoption of this policy as noted above, the University will conduct criminal record checks on all successful candidates, internal and external, including volunteers, for positions that are listed as being subject to a criminal record check.
- B. The positions that are outlined in **Attachment A** are subject to criminal record checks. These positions meet the criteria as outlined in section IV of this document. This list is not exhaustive, and the University reserves the right to add or delete positions at anytime provided any additions are

covered by the criteria in section IV. The university will notify the affected bargaining units when adding or deleting a represented position.

- C. All advertisements, notices, and postings for positions listed in “Attachment A”, as it is amended, as requiring a record check will state: *“Successful candidates for this position will be offered the position contingent on a satisfactory criminal record check.”*
- D. Once the completed recruitment packet is returned to Staff Human Resources or Faculty Affairs, they will provide the finalist with the *Request For Information* form and (**Attachment B**) LiveScan form and ensure the process is completed. Individuals refusing to sign the authorization are eliminated from further consideration.
- E. Some deviations to the procedure outlined in paragraph D, above, are expected when national searches are conducted. In such circumstances it may be more practical to have all finalist candidates, who are brought to campus, undergo the LiveScan screening while here.
- F. If circumstances require that an offer or decision be made before the completion of the investigation, the offer must be in writing and state that the offer is contingent on the completion of a satisfactory criminal records investigation. The new hire may not start the position, or existing employee transfer, until the results of the screening are received and reviewed.

VI. If the Candidate’s Screening Reveals Felony Convictions

- A. The University Conviction Review Committee (UCRC) will be notified of all criminal record checks in which convictions are found.
 - 1. The Committee will review these reports and make final determinations regarding the suitability of individuals for specific positions. The Review Committee may recommend implementation of additional controls before a department can employ an individual with a felony conviction.
 - 2. The Committee will be assembled and staffed in a way that allows it to convene in an expeditious manner after receiving notification from Staff Human Resources or Faculty Affairs.
- B. Only felony convictions will be considered in determining an individual’s suitability for employment. Detention and /or arrest without conviction or criminal or sexual offender web sites do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process.
- C. If the results of the criminal record check preclude an individual from employment, transfer, reclassification, or reassignment of job duties on the campus, Staff Human Resources or Faculty Affairs will notify the candidate.

1. Copies of the results do not have to be provided to the subject under the California Investigative Consumer Reporting Agencies Act (California Assembly Bill 655). Subjects of record checks are, however, entitled to receive a summary of the record check from the Department of Justice regardless of the results of the check.
 2. Upon request, University Police will provide subjects of criminal record checks with information regarding how they can obtain the same information directly from the Department of Justice.
 3. If the results of the criminal record check preclude a current employee from transfer, reclassification, or reassignment from a non-security position to a position designated as a security sensitive position, the results of the criminal record check shall have no bearing on the individual's continued employment in the non-security sensitive position unless:
 - i) The employee failed to admit to a felony conviction on his/her initial application for employment with the University; or
 - ii) The felony conviction was of such a nature as to impact the safety or security of students, faculty, staff or University property.
 4. If the University believes the results of the criminal record check impact the employee's ability to continue in his/her current position, the University will consider the individual's suitability for employment or change in job duties after considering the specific duties of the position, the number of offenses and circumstances of each, the period of time since the employee's last felony conviction, and whether the offenses were disclosed on the application. Any action taken by the University pursuant to this and/or the preceding paragraph that results in a loss of salary to the employee shall be considered a disciplinary action. Any such disciplinary action may only be administered in a manner consistent with the terms of the applicable collective bargaining agreement in accordance with the applicable provisions of the California Education Code.
- D. Staff Human Resources or Faculty Affairs will serve as the Office of Record for record check results.