


Date: December 21, 2017 Code: HR 2017-17
To: CSU Presidents Supersedes: HR 2016-08
From: Melissa L. Bard 
Vice Chancellor
Human Resources
Subject: Background Check Policy

Summary of Changes Required by AB 1008

California State University's existing Background Check Policy has been revised and updated/clarified to comply with new legal requirements:

- The CSU is prohibited from inquiring or considering conviction history until after a conditional offer of employment has been made except for those positions where background checks are required by law including any position with a University law enforcement agency.
- The CSU is prohibited from inquiring or considering an applicant's juvenile offense history.

Summary of CSU Policy Changes Pursuant to AB 168

- The CSU shall not ask applicants about salary history.
- The CSU shall provide salary range information for the position to an applicant for employment, upon reasonable request.

Summary of Clarifications to Existing CSU Policy

- The CSU process for considering criminal records and notifying applicants of disqualification has been revised to track the language of the new laws.
- The CSU is clarifying that students and volunteers must be background checked if they are accessing Level I data.
- The CSU is clarifying that campuses may conduct periodic sexual offender registry checks for those employees who will have regular or direct contact with minors.
- The CSU is clarifying that campuses may conduct a search of the sexual offender registry for volunteers who will have regular or direct contact with minors.

Distribution:

With Attachments:
Human Resource Officers
Associate Vice Presidents/Deans of Faculty
General Counsel
Athletic Directors

Without Attachments:
CSU Chancellor
All Campus Vice Presidents

- California Government Code §12952 (FEHA) was added as an additional reference.

Implementation

The responsibility for implementing background checks is delegated to the Presidents. This HR Letter should be read in its entirety by individuals responsible for administering campus background check programs and procedures. Campuses must review their existing policies to ensure that they are in compliance with updated requirements and should work with their respective labor managers to address any potential meet and confer issues.

Affected Employee Group(s)/Units

- All new hires.
- Current employees in positions for which background checks are required by law.
- Current employees under voluntary consideration for sensitive positions for which background checks are required.
- Student workers and volunteers in positions that require background checks by law and/or where they access Level 1 data.
- Consultants and employees of auxiliaries, outside entities, and independent contractors in positions that require background checks.

Policy Statement

The California State University (CSU) is committed to protecting the health, well-being, and safety of its employees (including student workers), students, volunteers, and guests. Protection of the campus community and its assets can be best achieved when risk and issues of compliance are well managed. To accomplish these goals, the Background Check Policy was created to provide policy directives and guidance in the administration of background check programs. This policy requires background checks to be conducted on all final candidates for hire once CSU makes a conditional offer of employment. For the purposes of this policy, current CSU employees are required to undergo background checks if under voluntary consideration for a position in which a background check is required by law or for a sensitive position (with limited exceptions). Sensitive positions are those designated by the CSU as requiring heightened scrutiny of individuals based on the potential for harm, concerns for safety and security, or risk of financial loss to the CSU community. Student workers and volunteers are required to have background checks if they perform duties that would require a background check by law or if they access Level 1 data. Independent contractors, consultants, and auxiliaries that operate under the CSU name or on CSU property are responsible for ensuring that their employees have had background checks if they perform duties that the CSU considers to be sensitive or that would require a background check by law.

The CSU recognizes the need to balance its responsibility for conducting background checks with the need to protect individual privacy. Federal law, state law, and University policy recognize the individual's right to privacy and restrict the use of information obtained through background checks. The campuses are responsible for maintaining the confidentiality of the background check results and for ensuring they are properly retained and destroyed as appropriate. Background check information cannot be used to discriminate against any individual on the basis of race, religion, ancestry, color, sex, sexual orientation, gender identity, age, physical disability, mental disability, veteran status, marital status, pregnancy, medical condition, genetic information, and/or national origin.

Questions regarding this policy should be directed to Systemwide Human Resources at CSUBackgroundCheck@calstate.edu or your campus counsel. This document is available on the Human Resources Management's Website at: <https://csyou.calstate.edu/Policies/HRPolicies/Forms/Default.aspx>.

MB/sw

Attachments

HR 2017-17
Attachment A
Background Check Policy
Requirements
And Checking Practices

BACKGROUND CHECK POLICY REQUIREMENTS AND CHECKING PRACTICES

HR 2017-17 updates and clarifies CSU's Background Check Policy. The information presented in Attachment A is organized as follows:

- I. Overview
- II. Types of Background Checks
 - A. Required Background Checks
 - B. Checks That May Be Done If Job-Related
- III. Persons Subject to Background Check Requirements
 - A. New Hires
 - B. Rehires
 - C. Current Employees Who Must Undergo Background Checks
 - D. Student Workers Who Must Undergo Background Checks
 - E. Employees, Volunteers, and Consultants Who Work at CSU-Hosted Recreational Camps and Clinics On or Off Campus
 - F. Employees of Auxiliaries and Outside Entities
 - G. Employees of Independent Contractors
 - H. Police Personnel
 - I. Refusal to Undergo a Required Background Check
- IV. Persons Exempt from Background Check Requirements
 - A. Current Employees
 - B. Student Workers
 - C. Student Activities
 - D. Faculty Participants in Faculty Early Retirement Program (FERP)
 - E. Employees Re-appointed to the Same Class & Campus Within Twelve (12) Months
 - F. Volunteers
- V. Sensitive Positions
- VI. Administration of Background Checks
 - A. Certification of Information on CSU Application
 - B. Pre-Appointment Completion of Background Checks
 - C. Pre-Appointment Completion of Criminal Records Check
 - D. Communication
 - E. Limited Exception to Completion of Background Checks Prior to Beginning Work
 - F. Notice and Information Pursuant to Information Practices Act (IPA)
 - G. Notice and Information Pursuant to Fair Credit Reporting Act (FCRA) and Investigative Consumer Reporting Agencies Act (ICRA)
- VII. Guidelines for Conducting Criminal Records Checks
 - A. Conducting Criminal Records Checks
 - B. Criminal Records That May Be Considered
 - C. Criminal Records That May Not Be Considered
 - D. Options for Conducting Criminal Records Checks
 - E. Authorization and Disclosure Requirements for Criminal Records Checks
 - F. Required Procedures
 - G. Confidentiality

- H. Notice and Information Regarding the Criminal Offender Record Information (CORI)
- VIII. Guidelines for Considering Adverse Criminal Records Check Results
 - A. If the Criminal Records Check Reveals a Conviction
 - B. Notice and Right to Appeal Adverse Results
 - C. Effect of Conviction on Current Employee's Continued Employment
 - D. Represented Employees
- IX. Guidelines for Conducting Credit Checks
 - A. Persons Subject to Credit Check Requirements
 - B. Authorization and Disclosure Requirements for Credit Checks
 - C. Notice and Right to Appeal Adverse Results
 - D. Confidentiality
- X. Records Retention

I. OVERVIEW

Background checks are required for all final candidate(s) considered for hire once CSU makes a conditional offer of employment. Individuals who are currently employed in positions in which a background check is required by law are required to undergo background checks. Current employees are also subject to background checks if they are voluntarily under consideration for new positions that the CSU has designated as sensitive. This includes all temporary, probationary, intermittent, and at-will employees. Background checks are not required for involuntary reassignments or reclassifications or other employment changes that do not result in the employee moving into a different position. Sensitive positions are those designated by the CSU as requiring heightened scrutiny of individuals holding the position based on potential for harm to children, concerns for the safety and security of people, animals, or property, or heightened risk of financial loss to the CSU or individuals in the university community.

Student workers and volunteers must be background checked if they are performing work in which a background check is required by law or accessing Level I data, per the CSU Information Security policy (i.e. ICSUAM 8030). Consultants, independent contractors, and employees of auxiliaries or outside entities must undergo background checks if required by law or if the work they will be performing meets the CSU definition of "sensitive". In addition to the above requirements, background checks are required for all individuals (new hires, current employees, volunteers, consultants, and the employees of auxiliaries, outside entities, and independent contractors) who perform work involving regular or direct contact with minor children, including at CSU-hosted recreational camps.

Campuses shall ensure that all background checks are conducted in compliance with applicable federal and state statutes, and that the confidentiality of all background check information is maintained to the extent permitted by law. The types of background checks to be conducted are set forth in this policy and are based on the nature of the position. Unless otherwise specified, background checks required for all positions include employment verification, education verification, reference checks, and criminal records checks. If job related, additional

checks, including credit report history checks, motor vehicle records/licensing checks, sex offender registry checks, and/or professional licensing/credential verification, may also be initiated as a part of the selection process. Job postings for positions that require background checks shall specifically state the requirement.

The campus President determines the appropriate entity to conduct background checks. If a campus conducts its own background checks, it must comply with the California Information Practices Act (IPA), Civil Code § 1798, *et seq.* If a campus uses a third party agency to conduct background checks, it must comply with the Federal Fair Credit Reporting Act (FCRA) 15 USC § 1681 *et seq.* and the California Investigative Consumer Reporting Agencies Act (ICRA) Civil Code § 1785 *et seq.* See Section VI (Administration of Background Checks) for more details. Third party agencies have been retained on a systemwide basis in efforts to afford systemwide economies and ease of administration; this service is optional to the campuses.

II. TYPES OF BACKGROUND CHECKS

Depending on the status of the applicant (new hire or rehire) and the nature of the position, one or more of the following background checks will be conducted:

A. Required Background Checks

1. Employment Verification

Employment relevant to the position will be verified for the previous five (5) years. Campuses may elect to verify employment beyond five years at their discretion. Campuses shall not include any questions or requests for an applicant's salary history.

2. Education Verification

The campus will verify all educational requirements as appropriate to the position, which may include the high school diploma or General Education Development (GED) certificate, and all post-secondary degrees. Official transcripts may be required.

3. Reference Checks

The campus will contact current and former employers with a standardized inquiry to verify the applicant's work history and skills. The campus may send an inquiry to the applicant's current employer if the applicant specifically consents or if an offer is made on such condition.

4. Criminal Records Checks

The campus will perform a criminal records check or will have a third party agency conduct this check only after a conditional offer has been made. The CSU shall not subscribe to subsequent criminal records updates on applicants or employees, except as required by law.

5. Fingerprints

Fingerprinting is required for all employees and volunteers who have direct contact with minor children in a recreational program or camp operated by the CSU or on CSU property.

B. Checks That May Be Done if Job-Related

1. Credit Report History Check

Credit checks are not required for any candidate unless CA Labor Code § 1024.5 authorizes a credit check for the position and the campus determines it to be job-related, the campus may obtain and review the candidate's credit report. The campus' review will comply with the requirements of the Consumer Credit Reporting Agencies Act (CCRAA) (Refer to Attachment D1 for more details).

2. Motor Vehicle Records/Licensing Check

The campus will verify that applicants have a valid California or other State driver's license for employees who drive as a part of their university duties. The license must be appropriate to the vehicle operated (automobile, commercial vehicle, machinery, or equipment). For positions that require employees to routinely transport students, faculty and/or staff, the campus may require the applicants to authorize the Department of Motor Vehicles to provide a copy of their past driving record. The CSU may require that employees authorize the campus to obtain periodic updates of their driving records.

3. State/National Sexual Offender Registry Check

For all employment positions with regular or direct contact with minors, the campus will verify if applicants have been included in any state or federal sexual offender registry upon making a conditional offer of employment. Campuses may access records from the Megan's Law website (<http://www.meganslaw.ca.gov/>) to conduct a California state sexual offender registry check. For a national sexual offender registry search, campuses may access the U.S. Department of Justice's website (www.nsopr.gov) and/or the Federal Bureau of Investigation's website (www.fbi.gov/scams-safety/registry). CSU may conduct periodic sexual offender registry checks for those employees with regular or direct contact with minors.

4. Professional Licensing, Certification, and/or Credential Verification

The campus will verify the applicant's professional licenses, certifications, and/or credentials to ensure that they are current and valid for practice. The campus will also assess if any disciplinary action(s) have been taken against the applicant through the licensing board or other appropriate source.

III. PERSONS SUBJECT TO BACKGROUND CHECK REQUIREMENTS

A. New Hires

Effective with this policy, the CSU will conduct thorough background checks for all newly hired employees upon making a conditional offer of employment. This includes all temporary, probationary, intermittent, and at-will employees. Any current CSU employee who transfers from one campus to another will be considered a new hire. Background checks for all final candidate(s) considered for new hire and who receive a conditional offer of employment will include employment verification, education verification, reference checks, and a criminal records check.

B. Rehires

Any former employee (including a rehired annuitant and temporary faculty member) who is re-appointed to a CSU position after a break in service of twelve (12) months or more and who has not had a CSU background check within the past 12 months on the same campus will be subject to background check requirements appropriate to the new position.

C. Current Employees Who Must Undergo Background Checks

Individuals who are under voluntary consideration for positions in which a background check is required by law or who are under voluntary consideration for positions that the CSU has designated as sensitive are required to undergo background checks. This provision applies to current employees unless they have successfully completed a CSU background check within the past 12 months on the same campus. For those positions where a background check is required by law, any current employee who is a final candidate will be required to submit to a background check. On the other hand, current employees seeking positions that are designated as sensitive but where a background check is not required by law will only be subject to a background check once CSU makes a conditional offer of employment.

Positions in which background checks are currently required by law include, but are not limited to the following:

- Sworn CSU Police Personnel (California Government Code §1029 and 1031)
- Police Officer Cadets (California Government Code §1029 and 1031)
- Police Dispatchers (Commission Regulation 1959)
- Positions with direct contact with minor children at a camp operated by the CSU (Education Code §10911.5)
- Positions with access to stored criminal offender record information (11 CCR §703 and 11 CCR § 707)
- Positions with access to patients, drugs or medication (California Labor Code § 432.7)

The background check requirement will also apply to current CSU employees in positions for which new laws require such background checks.

A guide to what is considered a sensitive position can be found in Section V of this document. Sensitive positions include employees, student workers and volunteers who have access to Level 1 information assets (Level 1 data). For more information, visit the Integrated CSU Administrative Manual's Information Security Policy at <http://www.calstate.edu/icsuam/sections/8000/8030.0.shtml> and/or Information Security Management's Information Security Data Classification Policy at https://cyou.calstate.edu/Policies/icsuam/Documents/8000/8065_FINAL_DRAFT_Data_Classification_CW_V4.pdf

D. Student Workers Who Must Undergo Background Checks

Student workers are CSU students appointed in CSU non-represented and/or represented student classifications. Their educational relationship with the university is predominant. The CSU is required to conduct a background check on student workers if they are being considered for a position in which a background check is required by law or accessing Level I data, per the CSU Information Security policy (i.e. ICSUAM 8030) These student workers will be required to have background checks if they have not had checks within the past 12 months on the same campus.

E. Employees, Volunteers, and Consultants Who Work at CSU-Hosted Recreational Camps and Clinics On or Off Campus

In an effort to provide the safest possible environment for minor children, the CSU will conduct a background check, including a criminal records check and sexual offender registry check, for all CSU employees, volunteers, and consultants who perform work involving direct contact with minor children at CSU-hosted recreational camps that are operated by the CSU or on CSU property, a CSU auxiliary, or by an outside entity. The term "recreational" includes, but is not limited to, sports, dance, academic, and other recreational camps or clinics for minor children hosted by the CSU. As part of the agreement to operate on CSU property or under the CSU name, outside entities are responsible for ensuring that the appropriate background checks are completed for its volunteers and employees. The CSU may provide background check services for a fee; otherwise, these volunteers and consultants must provide confirmation of completed and cleared background checks.

The Education Code § 10911.5 requires an employer to fingerprint any employee who will have direct contact with minor children in a recreational program and to submit the fingerprints to the Department of Justice. CSU Policy requires fingerprinting for any employee or volunteer who will have direct contact with minor children in a recreational program or camp operated by the CSU or on CSU property.

Bargaining unit employees who have worked in the past or who are currently working with camps and/or clinics on the campus (e.g., youth activities) are subject to this requirement unless they have successfully completed a criminal records check and sexual offender registry check within the past 12 months on the same campus.

F. Employees of Auxiliaries and Outside Entities

It is the campus' responsibility to ensure that the HR policy requirement to conduct background checks is enforced for individuals employed by auxiliaries and other entities that operate programs on CSU premises. The CSU requires auxiliaries and outside entities that employ individuals in positions who are subject to legal background check requirements and those in positions defined as sensitive by CSU policy to certify that such individuals have completed appropriate background checks. In addition, as described in Section III. E., auxiliaries and outside entities that operate recreational camps or clinics on CSU property or under the CSU name must ensure that all individuals who perform work in such camps undergo appropriate background checks. The CSU may provide background check services for a fee; otherwise, these auxiliaries and outside entities must provide confirmation of completed and cleared background checks. Auxiliaries must also abide by their respective city ordinances as they pertain to background checks.

G. Employees of Independent Contractors

Employees of independent contractors are subject to CSU background check requirements if they are in sensitive positions or perform duties where a background check is required by law. As part of the agreement to operate under the CSU name or on CSU property, independent contractors are responsible for attesting that the appropriate background checks have been completed. The CSU may provide background check services for a fee; otherwise, these outside entities must provide confirmation of completed and cleared background checks.

For administration and/or guidelines pertaining to background check requirements for independent contractors, please refer to the Integrated CSU Administrative Manual (ICSUAM) at <http://www.calstate.edu/icsuam>, and contact your respective contracts and procurement department.

H. Police Personnel

State University Police Association (SUPA) employees are governed by this section only. Selection of CSU police personnel, including sworn police personnel and police officer cadets, as well as background check requirements are addressed in CSU's Selection of CSU Police Personnel and Police Officer Testing Policy located under Public Safety policies at <https://cyou.calstate.edu/Policies/HRPolicies/Forms/Default.aspx>. The California Commission on Peace Officer Standards and Training (P.O.S.T.) sets background check requirements for Police Dispatchers. For more information, visit <http://www.post.ca.gov/overview-selection-standards.aspx>.

I. Refusal to Undergo a Required Background Check

If a new hire or current employee who is required to undergo a background check refuses to do so, management reserves the right to disqualify the person from consideration. In the case of a current employee, a refusal to undergo a background check as required by this policy may result in disciplinary action up to and including dismissal.

IV. PERSONS EXEMPT FROM BACKGROUND CHECK REQUIREMENTS

A. Current Employees

Current employees of the CSU are exempt from the requirement for background checks, unless under voluntary consideration for a position in which a background check is required by law or for a position that has been designated as sensitive. Employees who are given the opportunity to be appointed to a sensitive position that requires a background check may decline the opportunity.

B. Student Workers

A student worker is exempt from the requirement for a background check, unless being considered for a position in which a background check is required by law or accessing Level I data, per the CSU Information Security policy (i.e., ICSUAM 8030). If that is the case, only the specific checks required by law must be performed.

C. Student Activities

Students participating in activities associated with service learning, community engagement, student clubs, student government, internships, field trips, and other similar curricular or co-curricular activities are subject to separate regulations and policies and are not included under this policy.

D. Faculty Participants in Faculty Early Retirement Program (FERP)

Participants who enter the Faculty Early Retirement Program are not subject to background check requirements for the duration of the FERP appointment, unless they are moved into a sensitive position that would otherwise require a background check.

E. Employees Re-appointed to the Same Class & Campus Within Twelve (12) Months

Former employees who are re-appointed to the same CSU position at the same campus within twelve (12) months after the end of the previous appointment shall not be treated as a rehire as defined under Section III. B. ("Rehires") and therefore will not be required to undergo a background check.

F. Volunteers

CSU volunteers are exempt from background checks unless performing duties for which a background check is required by law, or accessing Level I data, per the CSU Information Security policy (i.e., ICSUAM 8030) or as described in Section III. E. above. If that is the case, only the specific checks required by law must be performed. CSU Policy requires campuses to conduct a search of the California sexual offender registry (Megan's law) for all volunteers who will have regular or direct contact with minors. CSU policy requires fingerprints for all volunteers who will have regular or direct contact with minors in a recreational program or camp operated by the CSU or on CSU property.

V. SENSITIVE POSITIONS

Sensitive positions are designated by the CSU as requiring heightened scrutiny of individuals holding the position based on potential for harm to children, concerns for the safety and security of the people, animals, or property, or heightened risk of financial loss to the CSU or individuals in the university community. Whether a CSU position should be considered sensitive is determined by the duties and responsibilities of the position and not the job title or classification. The campus President is responsible for determining which specific positions at the campus fall into these categories and, if so, what the minimum background check requirements shall be.

The posted position description shall state that the position has been designated to be a sensitive position. In addition to identifying any specific background checks all posted position descriptions for sensitive positions should include an identifier (e.g., checkbox) indicating whether or not the position will have access to Level 1 data.

The table below provides information regarding key duties and responsibilities associated with sensitive positions. In some cases, candidates for those positions must undergo additional types of job-related background checks beyond those required of all new employees. **The list of positions and tasks is illustrative and is not exhaustive.**

Key Duties and Responsibilities	Examples of Occupation/Position	Examples of major position functions or tasks
Responsibility for the care, safety, and security of people (including children and minors), animals	<ul style="list-style-type: none"> ▪ Childcare services personnel¹ ▪ Coaches¹ ▪ Camp and Clinic Staff¹ ▪ Counseling services ▪ Health Care services ▪ Public Safety services ▪ Recreation related services ▪ Healthcare professionals 	<ul style="list-style-type: none"> ▪ Provides services for and/or directly works with children and minors ▪ Provides student and employee psychological counseling services ▪ Provides health care and related services ▪ Provides services for and/or work with animals
Authority to commit financial resources of the university through contracts greater than \$10,000	<ul style="list-style-type: none"> ▪ Contracts and Procurement Managers and Staff ▪ Buyers ▪ Controllers ▪ Financial Managers ▪ Administrative Managers 	<ul style="list-style-type: none"> ▪ Approves contracts ▪ Approves bids and RFP's ▪ Approves vendors or products ▪ Approves payments ▪ Ability to commit funds and services for programs and projects
Access to, or control on a regular basis of amounts greater than \$10,000 in cash, checks, credit cards, and/or credit card account information	<ul style="list-style-type: none"> ▪ Business and Accounting Managers and staff ▪ Procurement ▪ Collections ▪ Cashiers 	<ul style="list-style-type: none"> ▪ Transfers, withdraws, and/or deposits money ▪ Uses a company-issued credit card to purchase items ▪ Handling/receipt of funds

¹Fingerprinting is required for those employees who perform work involving regular or direct contact with minor children in a recreational program or camp operated by the CSU or on CSU property. Sexual offender registry check is required by CSU policy for those who perform work involving regular or direct contact with minor children.

Possession of building master or sub-master keys for building access, or unsupervised access to CSU property	<ul style="list-style-type: none"> ▪ Building Engineers ▪ Facilities personnel ▪ Custodians ▪ Locksmiths ▪ Maintenance personnel ▪ Other employees who have access to master or sub-master keys for building access 	<ul style="list-style-type: none"> ▪ Enters workspaces for maintenance or repair of equipment ▪ Works in residences and other facilities for ongoing maintenance ▪ Maintains building security ▪ Enters facilities for installation and/or cleaning
Access to controlled or hazardous substances	<ul style="list-style-type: none"> ▪ Pharmaceutical personnel ▪ Healthcare professionals ▪ Custodians ▪ Employees with access to hazardous chemicals or controlled substances 	<ul style="list-style-type: none"> ▪ Dispenses prescription medication ▪ Maintains drug formulary ▪ Duties requiring access to controlled substances ▪ Uses hazardous chemicals
Access to and responsibility for detailed personally identifiable information about students, faculty, staff, or alumni as defined in CSU Information Security Standards	<ul style="list-style-type: none"> ▪ Auditors ▪ HR and Payroll Managers and staff ▪ Information Technology (IT) personnel ▪ Information Systems personnel ▪ Programmers ▪ Healthcare staff ▪ Registrars ▪ Employees, Student Workers, Volunteers with access to Level 1 data through campus data centers/systems 	<ul style="list-style-type: none"> ▪ Works with Level 1 data as defined under CSU Information Security Standards² ▪ Work requiring access to patient files in a healthcare facility ▪ Systems maintenance
Control over campus business processes, either through functional roles or system security access	<ul style="list-style-type: none"> ▪ IT management ▪ HR management ▪ Information Officers ▪ Information Security ▪ Business and Finance management 	<ul style="list-style-type: none"> ▪ Control over/ability to modify employee, student, financial databases
Responsibilities that require the employee to possess a license, degree, credential or other certification in order to meet minimum job qualifications and/or to qualify for continued employment in a particular occupation or position ³	<ul style="list-style-type: none"> ▪ Athletic Trainers ▪ Attorneys ▪ Counselors ▪ Diving/Water Safety Professionals ▪ Engineers ▪ Healthcare professionals ▪ Heavy Equipment Operators ▪ Pest Control ▪ Police Officers 	<ul style="list-style-type: none"> ▪ Counsels employees or students ▪ Designs or build facilities and offices ▪ Provides legal advice ▪ Renders medical services ▪ Renders safety services
Responsibility for operating commercial vehicles, machinery or equipment that could pose environmental hazards or cause injury, illness, or death ⁴	<ul style="list-style-type: none"> ▪ Automotive technicians ▪ Equipment operators ▪ Environmental health and safety officers ▪ Groundskeepers ▪ Police officers ▪ Transit drivers 	<ul style="list-style-type: none"> ▪ Operation of University or commercial vehicles ▪ Operation of heavy equipment or machinery ▪ Responders to emergencies involving potentially hazardous substances

² Link: <http://www.calstate.edu/icsuam/sections/8000/8030.0.shtml>

³ Appropriate professional licensing, certification, and/or credential verification is required

⁴ Motor Vehicle Records/Licensing check is required

In applying this information, campuses must consider factors such as the frequency, nature, and duration of potentially sensitive duties as well as level of supervision. For example, a faculty member's interactions with students in the classroom or during office hour settings do not constitute *responsibility* for the care, safety, and security of people; therefore, these activities do not make their positions "sensitive." Likewise, incidental contact with college students who are minors during classes or office hours do not by itself make a faculty position "sensitive." However, a background check is appropriate when a major portion of the faculty member's responsibilities involve working directly with minor populations.

In addition, individuals who provide one-time services (e.g., public talks, guest lectures, conference presentations, workshop facilitations) are exempt from the background check requirement. These activities are typically non-sensitive and provide low levels of risk to the organization.

VI. ADMINISTRATION OF BACKGROUND CHECKS

A. Certification of Information on CSU Application

The campus should review the information provided on the CSU application to determine that it is accurate and does not disqualify the applicant from employment. [HR Letter 2017-16](#) establishes the information that must be obtained from each applicant prior to an offer of employment. The applicant is required to certify that the information provided in the official employment application is true and correct. Misrepresentation, falsification, or omission of facts provided to the CSU may be considered cause for rescinding an offer of employment, termination of employment, and/or denial of consideration for future employment.

As a reminder, [HR 2017-16](#) and [HR/Appointments 2017-01](#) clarify that campuses are prohibited from asking a job applicant (including one applying for a student worker position) about his/her criminal conviction history until a conditional offer has been made, unless the person is hired to work in a position for which a background check is required by law, including campus police departments (e.g., police officers, dispatchers, Community Service Officers). For information relating to the elimination of criminal history questions from CSU initial job applications, refer to [HR/Appointments 2017-01](#)

B. Pre-Appointment Completion of Background Checks

The campus will initiate background checks on the final candidate(s) upon making a conditional offer of employment. The offer of employment must clearly state that the appointment is contingent upon successful completion of the background check and may be rescinded if the background check reveals disqualifying information and/or it is discovered that the candidate knowingly withheld or falsified information. Except as noted in Section VI. E. below, all background checks must be completed before an appointment is finalized and the candidate, including one who is a current employee, begins work in the new position.

C. Pre-Appointment Completion of Criminal Records Checks

The criminal records check should be initiated and completed upon making a conditional offer of employment. If circumstances require that an offer be made before the completion of the criminal records check, the offer must be in writing, state that it is contingent upon the successful completion of a criminal records check, and that the offer may be rescinded if the records check reveals disqualifying information and/or it is discovered that the candidate knowingly withheld or falsified information. The candidate, including one who is a current employee, may not start work in the new position until the results of the criminal records check are received and reviewed.

D. Communication

Job descriptions should reference the background check requirements in the qualifications. All advertisements, notices, and postings for positions that require background check must also state:

Satisfactory completion of a background check (including a criminal records check) is required for employment. CSU will make a conditional offer of employment, which may be rescinded if the background check reveals disqualifying information, and/or it is discovered that the candidate knowingly withheld or falsified information. Failure to satisfactorily complete the background check may affect the continued employment of a current CSU employee who was conditionally offered the position.

E. Limited Exception to Completion of Background Checks Prior to Beginning Work

The Chancellor, President, or his/her designee may authorize new faculty members to begin work before the background check is completed only in those limited circumstances where university operations would be adversely affected because it would not be otherwise possible to offer a class to students. The offer of employment must be in writing and state that it is contingent upon the completion of a satisfactory background check and may be rescinded if the background check reveals disqualifying information and/or it was discovered that the candidate knowingly withheld or falsified information. Such an exception will not be permitted where the position is one in which a background check is required by law or is designated as sensitive.

F. Notice and Information Pursuant to Information Practices Act (IPA)

Campuses that conduct their own background checks on applicants and/or utilize Live Scan are subject to the Information Practices Act (IPA). Pursuant to the California IPA (Civil Code, § 1798 *et seq.*), campuses must give notice to the applicants/employees of its intention to obtain background check information. The notice must inform the applicants of their right to request a copy of information obtained from the background check. Campuses should use a form like Attachment D2 for this purpose. Anyone who refuses to sign the request for information to conduct the background check will be eliminated from further consideration.

G. Notice and Information Pursuant to Fair Credit Reporting Act (FCRA) and Investigative Consumer Reporting Agencies Act (ICRA)

Campuses that utilize a third party agency (e.g., the systemwide background check vendor) are subject to the Federal Fair Credit Reporting Act (FCRA) and the California Investigative Consumer Reporting Agencies Act (ICRA). Pursuant to the Federal FCRA (15 U.S.C. § 1581 *et seq.*) and the California ICRA (CA Civil Code § 1760 *et seq.*) the applicant is entitled to receive a copy of the investigative consumer report within three (3) business days of the date it was received by the CSU. The disclosure requirements and forms are provided in Attachment D3, D4, and D5.

VII. GUIDELINES FOR CONDUCTING CRIMINAL RECORDS CHECKS

A. Conducting Criminal Records Checks

The cost of the criminal records check will be borne by the campus, not the employee or applicant. A criminal records search can be conducted on a state or national basis; the latter is appropriate if the applicant lived out of state. A national search may be a longer process, and will require the campus to plan accordingly. Criminal records checks for foreign nationals will be addressed on a case-by-case basis. For candidates who are current CSU employees, the Human Resources or Academic Personnel office will notify the candidate if the results of the criminal records check are determined to disqualify the candidate from the position for which the candidate has received a conditional offer of employment.

B. Criminal Records That May Be Considered

The CSU may consider felony and misdemeanor convictions, active arrests, or pending criminal cases (where the candidate is the subject of a current warrant for arrest or is awaiting trial on criminal charges). A conviction includes a plea, verdict, or finding of guilt, regardless of whether a sentence was imposed by the court, unless otherwise excepted by law. The CSU may consider a conviction if the candidate was convicted of the crime, released from prison or released from parole within seven (7) years before the assessment. If the background check reveals an active arrest warrant, the decision maker(s) will notify the campus police for verification and follow up action, if deemed necessary.

The CSU has discretion to consider a candidate who is under active arrest or awaiting trial on pending criminal charges

C. Criminal Records That May Not Be Considered

Detention and/or arrest that did not lead to a conviction are not valid grounds for employment decisions and cannot play a part in the decision-making process.

California law prohibits employers from asking about, considering, or seeking from sources any information concerning the following: (a) any record or arrest that did not result in a conviction; (b) any record regarding a referral to, and participation in, any pretrial or post-trial diversion program; (c) any conviction that has been judicially dismissed, expunged, or ordered sealed pursuant to law, including but not limited to Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the California Penal Code unless

otherwise required by law (Labor Code § 432.7(a)(1)). With respect to juvenile offenses, California law also prohibits employers from asking about, considering, or seeking from sources any information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication or court disposition that occurred while the applicant was subject to the process and jurisdiction of juvenile court law (Labor Code §432.7(a)(2)). Additionally, employers are prohibited from considering convictions for certain minor marijuana-related offenses after two years from the date of conviction (Labor Code § 432.8).

The CSU shall not subscribe to subsequent criminal records updates on applicants or employees, except as required by law.

D. Options for Conducting Criminal Records Checks

A campus may choose either to perform its own criminal records checks or to use a third party vendor to conduct the checks. Campuses that use a third party vendor may choose their own vendor or use the systemwide background check vendor to conduct criminal records checks. Campuses performing their own checks may use Live Scan, an automated process available through the California Department of Justice (CDOJ) that digitally scans and compares fingerprints to the state criminal records database of the CDOJ and/or the federal criminal records database of the National Crime Information Center (NCIC).

E. Authorization and Disclosure Requirements for Criminal Records Checks

For positions in which criminal records checks are required, the applicant for the position must authorize the criminal records check in writing, using the CSU-provided form. Specific forms used will depend on whether campuses are conducting their own criminal records check, or if they are using a third party. If campuses use a third party vendor to conduct the criminal records checks, the employee authorization provisions of the FCRA and the ICRA (see Attachments D3 and D4) are applicable. When using Live Scan, the employee authorization provisions of the Fair Credit Reporting Act (FCRA) and the Investigative Consumer Reporting Agencies Act (ICRA) are not applicable. Campuses that conduct their own checks and/or use Live Scan must comply with the employee authorization provisions of IPA (see Attachment D2). If a campus uses the systemwide vendor for background checks, the vendor will assist the campus in complying with FCRA, ICRA and/or IPA.

F. Required Procedures

Campus Human Resources and/or Academic Personnel departments will develop procedures to ensure that the candidate receives the appropriate forms authorizing the criminal records check and is provided with all notices required by law.

G. Confidentiality

The campus will maintain the confidentiality of criminal record check results, unless otherwise required by law. Only the appropriate HR personnel, the background check coordinator, decision maker(s), and records custodian will be notified of the specific results of the criminal records check. The hiring department and current department of the applicant/employee (if applicable) will not be notified of the specific results of the criminal records check. The criminal records check results are confidential and will be kept by the designated custodian of records in a location that is secure and separate from the employee's official personnel file.

H. Notice and Information Regarding the Criminal Offender Record Information (CORI)

The CORI is a record of all criminal court appearances for a particular individual, including arrests, convictions, dismissals, and serious violations. If the campus decides to use a third party to conduct a criminal records check and adverse action is taken based on the results of the investigation, the FCRA requires that the campus must provide the applicants with a copy of their CORI and disclose to the applicant a summary containing the nature and substance of the report on which the adverse action was based.

If there is a dispute about the results of the CORI, the campus is required to provide the applicant with information about the criminal records check appeal procedure. More details about pre-adverse and adverse action notices and forms are provided in Attachment B and Attachment D7, respectively.

For all other applicants, the campus will provide a copy of an applicant's CORI to him/her upon request. The campus should inform the applicant that the CORI may not be submitted to another agency; it is only for the employee's own record.

VIII. GUIDELINES FOR CONSIDERING ADVERSE CRIMINAL RECORDS CHECK RESULTS

A felony or misdemeanor conviction that is job-related may disqualify a candidate from employment and may disqualify a current employee from assuming a new position. Once the results of the criminal records check are obtained, the campus human resources or faculty affairs department, as appropriate, determines whether the results of the background check should disqualify the candidate from consideration for the position for which he/she applied. More information about considering adverse results can be found in Attachment B (Assessment and Appeals Process).

A. If the Criminal Records Check Reveals a Conviction

The decision maker(s) (as determined by the campus; see Attachment C for Roles and Responsibilities) is/are the person(s) responsible for reviewing criminal records check results. The decision maker(s) will review the criminal records report and make final determinations regarding the suitability of the candidate for the position. The decision maker(s) may recommend implementation of additional controls before a department can employ a candidate with a conviction.

The individual may not start the new position until the results of the criminal record check have been received, reviewed, and resolved. If campuses disqualify candidates from further consideration for a position, campuses must follow the procedures for pre-adverse and adverse action notices.

Disqualification decisions will be based on job-related/legitimate business reasons. Before deciding to disqualify a candidate, the decision maker(s) should consider the following, in consultation with HR, in determining whether the conviction impacts the candidate's suitability for the position:

- The nature and gravity of the crime(s) or conduct and the nature of the job held or sought;
- The period of time since the last conviction and completion of sentence served for the conviction; and
- The candidate's conduct, performance and/or rehabilitation efforts since the conviction(s).

Campuses should check with their university counsel with any questions about whether the results of criminal records checks should disqualify a candidate from appointment.

- When making an individualized assessment, certain types of convictions are clearly job-related to certain jobs and may be determined to preclude appointing an individual to those positions. Campuses should consult with university counsel to discuss whether such an individual should be hired and any special restrictions that may be appropriate for the hire of such an individual.

For example:

- Convictions for theft, embezzlement, identity theft, or fraud are job-related to positions with fiduciary responsibilities. Individuals with such convictions should generally not be appointed to positions with fiduciary responsibilities.
- Convictions or pending charges for child molestation and/or other sex offenses are job-related to positions that involve direct unsupervised contact with children, students, outreach programs, or access to residence facilities. Individuals with such convictions or pending charges should generally not be appointed to these kinds of positions.
- Individuals with workplace or domestic violence convictions or other convictions for violence should be screened carefully before hire. Campuses should consult

with university counsel to discuss special restrictions that may be appropriate for the proposed hire of such an individual.

B. Notice and Right to Appeal Adverse Results

If any information in the criminal records check is utilized to make an adverse action regarding an employment decision, the campus shall notify the applicant and provide a copy of the results using Attachments D5 and D7 **before** making a final determination. The applicant shall be given five (5) business days to request, in writing, clarification or further review of the decision. The campus decision maker(s) must wait five (5) business days after notice is given and consider the applicant's appeal before making a final decision. If within the five business days, the applicant notifies the campus that they are disputing the accuracy of the conviction history and that the applicant is taking steps to obtain information in support of this assertion, CSU shall allow the applicant five additional business days to respond. The campus shall consider any information timely submitted before making a final decision. More information about an applicant's right to appeal criminal records check results can be found in Attachment B (Assessment and Appeals Process).

C. Effect of Conviction on Current Employee's Continued Employment

The results of a criminal records check may subject a current employee to disciplinary action up to and including termination under the following circumstances:

- The employee was lawfully asked and failed to disclose a conviction in connection with a job application(s) for employment with the CSU; or
- The criminal records check reveals a conviction that was of such a nature as to impact the employee's ability to continue in his/her current position because of concerns over the safety or security of students, faculty, staff, or CSU property.

If disciplinary or other action is taken as a result of the criminal records check, an employee shall have the rights enumerated in CSU policy, the appropriate collective bargaining agreement, the Education Code and California Government Code Section 12952. This provision does not create a right to appeal if none currently exists.

D. Represented Employees

Any disciplinary action taken against a current employee resulting from the discovery of a criminal history will be administered in a manner consistent with the applicable collective bargaining agreement and the California Education Code.

IX. GUIDELINES FOR CONDUCTING CREDIT CHECKS

A. Persons Subject to Credit Check Requirements

Credit Checks are not required for any candidate. California law prohibits an employer from performing a credit on a candidate unless the type of position is listed in CA Labor Code § 1024.5. CSU policy allows a credit check to be performed if authorized by that provision and determined to be job related. The campus' review of the applicant's credit report will comply with the requirements of the Consumer Credit Reporting Agencies Act

(CCRAA) Civil Code § 1785.1, *et seq.* The CSU may only obtain the credit history report of a candidate for a position that, on the basis of duties, responsibilities, or access, could affect the institution financially and the individual is applying for or will work in one of the following positions:

- Managerial positions (defined as persons who manage the University or a department of the University, have the authority to make hiring/retention decisions, manage two or more persons, are exempt employees, and earn more than two times the state's current minimum wage)
- Positions with the state Department of Justice
- Sworn peace officers or other law enforcement positions
- Positions for which the information contained in the credit report is required by law to be disclosed or obtained
- Positions that involve regular access (for any purpose other than the regular solicitation and processing of credit card applications in a retail establishment) to all of the following types of personal information of any one person: bank or credit card account information, social security number, and date of birth
- Positions in which the person is, or would be, a named signatory on the bank or credit card account of the employer, authorized to transfer money on behalf the employer, or authorized to enter into financial contracts on behalf of the employer
- Positions that involve access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process, or trade secret that (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of the information, and (2) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information
- Positions that involve regular access to cash totaling \$10,000 or more of the employer, a customer, or client, during the workday. CSU may not conduct credit checks based on access to lesser amounts.

B. Authorization and Disclosure Requirements for Credit Checks

A campus that conducts a credit check on a candidate for a position is required to obtain authorization and provide the person with a disclosure statement (see Attachments D5 & D6) setting forth the specific basis permitting the employer to obtain a credit report.

C. Notice and Right to Appeal Adverse Results

The campus shall advise any individual applicant or current employee if he/she is disqualified due to results obtained from a credit history check using Attachment D5 and D7. The campus shall give the applicant an opportunity to provide additional information. If the applicant disagrees with the accuracy of any information in the report, the applicant must notify the campus within five (5) days of the receipt of the report that the applicant is challenging information in the report. The campus will not make a final decision on the applicant's employment status until the applicant has had a reasonable opportunity to address the information contained in the report. The campus decision maker(s) must wait

five (5) business days after notice is given and consider the applicant's appeal before making a final decision.

D. Confidentiality

The campus will maintain the confidentiality of the credit check results, unless otherwise required by law. Only the appropriate HR personnel, the background check coordinator, decision maker(s), and records custodian will be notified of the specific results of the credit check. The hiring department and current department of the employee (if applicable) will not be notified of the specific results of the credit check. The credit check results are confidential and will be kept by the designated custodian of records in a location that is secure and separate from the employee's official personnel file.

X. RECORDS RETENTION

The CORI should be maintained and destroyed no later than the termination of the new hire's employment or two (2) years from rejection due to the CORI pursuant to Equal Employment Opportunity Commission (EEOC) Regulation 29 CFR § 1602.49. Records pertaining to the new hire should be kept in accordance with EEOC regulations and kept separate from the employee's personnel file. Access to these records should be restricted to a designated Records Custodian, the person authorized to conduct the criminal records check using Live Scan, or equivalent. Release of information to unauthorized individuals can result in civil fines and criminal penalties under California Penal Code § 11142 and 11143. Please refer to CSU's Records Retention Policy for document retaining guidelines at www.calstate.edu/recordsretention/.

HR 2017-17
ATTACHMENT B
Assessment & Appeal Process

Adverse Results: Criminal Records Checks and Credit Checks

Attachment B Contents:

- I. Assessment of Criminal Records Check Results
 - A. Interpretation of Adverse Criminal History
 - B. Conducting an Individualized Assessment for Adverse Criminal Records Check Results
 - C. Communication of Adverse Criminal Records Check Results
 - D. Notice of Criminal Offender Record Information (CORI)
- II. Applicants' Right to Appeal Criminal Records Check Results
 - A. Pre-Adverse Action Notice
 - B. Five Business Days to Request Review
 - C. Adverse Action Notice
- III. Applicants' Right to Appeal Credit Check Results
 - A. Pre-Adverse Action Notice
 - B. Five Business Days to Request Review
 - C. Adverse Action Notice

I. ASSESSMENT OF CRIMINAL RECORDS CHECK RESULTS

A. Interpretation of Adverse Criminal History

If the background check reveals a conviction relevant to a position, the individual may be disqualified from holding the position. In making such a decision, the campus Decision Maker(s) will consider the following:

- The nature and gravity of the crime(s) and relevance to the position sought;
- The period of time since the last conviction and the completion of the sentence for the conviction; and
- The candidate's conduct, performance and/or rehabilitation efforts since the conviction(s).

See Attachment A Section VII "Conducting Criminal Records Checks."

B. Conducting an Individualized Assessment for Adverse Criminal Records Check Results

An employer's use of an individual's criminal history in making employment decisions may, in some instances, violate the prohibition against employment discrimination under Title VII of the Civil Rights Act of 1964 (Title VII) (42 U.S.C. § 2000 *et seq.*), or the California Fair Employment and Housing Act (FEHA) (CA Govt. Code § 12940 *et seq.*).

Exclusion of a candidate from consideration for employment is permissible if the conviction is job related and the exclusion is consistent with business necessity. An individual assessment of a job candidate with an adverse criminal history requires the campus to take the following steps:

- 1) Make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position. In making the assessment, CSU shall consider the following factors:
 - (a) The nature and gravity of the offense or conduct
 - (b) The time that has passed since the offense or conduct and completion of the sentence
 - (c) The nature of the job held or sought

- 2) If CSU makes a preliminary decision that the applicant's conviction history disqualifies the applicant from employment, CSU shall notify the applicant of this preliminary decision in writing. That notification may, but is not required to, justify or explain CSU's reasoning for making the preliminary decision.

II. APPLICANTS' RIGHT TO APPEAL CRIMINAL RECORDS CHECK RESULTS

When adverse information is found as a result of the criminal records check, applicants must be notified and given an opportunity to review the criminal records check results and submit an explanation through an appeal process.

A. Pre-Adverse Action Notice: The campus must first provide a Pre-Adverse Action Notice to the applicant, including a copy of the report together with a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The notification shall contain all of the following:

- i. Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer
- ii. A copy of the conviction history report, if any
- iii. An explanation of the applicant's right to respond to CSU's preliminary decision before that decision becomes final and the deadline by which to respond. The explanation shall inform the applicant that the response may include submission of evidence challenging the accuracy of the conviction history that is the basis for rescinding the offer, evidence of rehabilitation or mitigating circumstances, or both

The sample Pre-Adverse Action Notice and a copy of the Summary are provided in Attachment D7 and Attachment D5, respectively, of this policy.

Provide an opportunity to the candidate to demonstrate that the exclusion does not properly apply to him/her. The candidate may respond by providing information to demonstrate:

- That he or she was not correctly identified in the criminal record or that the record is otherwise inaccurate;
- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the candidate was convicted;
- The time that has passed since date of conviction or release from prison;
- Evidence that the candidate performed the same type of work, post-conviction, with the same or a different employer with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;
- Rehabilitation efforts;
- Employment or character references and any other information regarding fitness for the particular position; and
- Whether the candidate is bonded under a federal, state, or local bonding program. Consider whether the additional information shows that the exclusion of the candidate is not job related and consistent with business necessity.

B. Five Business Days to Request Review: When notified of the intended adverse action, the applicant shall be given five (5) business days to request, in writing, clarification or further review of the decision. The campus Decision Maker(s) must wait five (5) business days after notice is provided and consider the applicant's appeal before making a final decision. If within the five business days, the applicant notifies CSU in writing that the applicant disputes the accuracy of the conviction history report that was the basis for the preliminary decision to rescind the offer and that the applicant is taking steps to obtain evidence supporting that assertion, then the applicant shall have five (5) additional days to respond to the notice.

C. Examples of Rehabilitation or Mitigating Circumstances

Provide an opportunity to the candidate to demonstrate that the exclusion does not properly apply to him/her. The candidate may respond by providing information to demonstrate:

- That he or she was not correctly identified in the criminal record, or that the record is otherwise inaccurate;
- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the candidate was convicted;
- The time that has passed since date of conviction, or release from prison;
- Evidence that the candidate performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;
- Rehabilitation efforts;
- Employment or character references and any other information regarding fitness for the particular position; and
- Whether the candidate is bonded under a federal, state, or local bonding program; and

D. Adverse Action Notice: The campus may finalize its decision to disqualify the applicant if, after five (5) business days (or five (5) additional days if the applicant presents information challenging the accuracy of the conviction history report), no additional information has been presented establishing that disqualification based on the initial results of the check is inappropriate. If the decision is to deny the applicant solely or in part because of the applicant's conviction history, CSU shall notify the applicant in writing of all of the following:

- i. The final denial or disqualification. CSU may, but is not required to, justify or explain the reasoning for making the final denial or disqualification.
- ii. Any existing procedure CSU has for the applicant to challenge the decision or request for reconsideration.
- iii. The right to file a complaint with the Department of Fair Employment and Housing.

The campus will provide written notice to the individual of the non-selection using the Adverse Action Notice in Attachment D7.

E. Communication of Adverse Criminal Records Check Results

If any information in the criminal records check is utilized to make an adverse action regarding an employment decision, the campus shall notify the applicant of the information and its source in writing **before** making a final determination.

F. Notice of Criminal Offender Record Information (CORI)

If an applicant for employment requests a summary of the criminal records check results, an employer is required to provide it (under IPA, FEHA, ICRA, and/or FCRA). See Governing Laws under Attachment D1 for additional information.

III. APPLICANTS' RIGHT TO APPEAL CREDIT CHECK RESULTS

When applicants will be disqualified due to the results obtained from a credit history check, they must be notified and given an opportunity to submit an explanation through an appeal process.

- A. Pre-Adverse Action Notice:** The campus must first provide a Pre-Adverse Action Notice to the applicant, including a copy of the report together with a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The sample Pre-Adverse Action Notice and a copy of the Summary are provided in Attachment D7 and D5, respectively, of this policy.
- B. Five Business Days to Request Review:** When notified of the intended adverse action, the applicant shall be given five (5) business days to request, in writing, clarification or further review of the decision. The campus Decision Maker(s) must wait five (5) business days after notice is provided and consider the applicant's appeal before making a final decision.
- C. Adverse Action Notice:** The campus may finalize its decision to disqualify the applicant if, after five (5) business days, no additional information has been presented establishing that disqualification based on the initial results of the check is inappropriate. If the decision is finalized, the campus will notify the individual of the non-selection using the Adverse Action Notice in Attachment D7.

HR 2017-17
ATTACHMENT C
Roles and Responsibilities

Attachment C Contents:

- I. Roles and Responsibilities
 - A. Campus Responsibilities
 - B. Role: Background Check Coordinator
 - C. Role: Decision Maker(s)
 - D. Role: Records Custodian

I. ROLES AND RESPONSIBILITIES

A. Campus Responsibilities

It is the campus responsibility to:

- Develop and maintain general written guidelines regarding background checks that comply with governing laws and CSU policy, including provisions to obtain a candidate's authorization to conduct background checks when extending a conditional offer of employment.
- Develop a process for the candidate to *inquire* about the accuracy of a background check report and to ensure that information regarding the process is provided to him/her at the time the authorization form is provided.
- Determine whether a position should be designated as sensitive and document that information on the position description.
- Ensure all recruitment information, announcements and position descriptions state if a position requires a background check.
- Determine whether the campus president directs the campus to conduct background checks or directs the use of a third party vendor.
- Notify the candidate under consideration that any offer of employment is conditional on successful completion of a background check and that falsification of information provided will be cause for corrective action or rejection.
- Maintain confidentiality of background check information. (See Attachment D8 for relevant information).
- Develop a process for the campus to monitor compliance with the policy for volunteers, consultants, auxiliaries, and outside entities.
- Designate the following roles with its corresponding responsibilities: Background Check Coordinator, Records Custodian, and the Decision Maker.

B. Role: Background Check Coordinator

The campus will identify the individual(s) responsible for all activities involved with the background check process. The Background Check Coordinator will take the following steps or confirm that the third party vendor used by the campus completes these steps:

- Determine the types of checks to be performed for each job title based upon the policy and the job responsibilities;
- Ensure consistency in background check processes and decisions;
- Review documentation and forms received from final candidates to ensure completeness;
- Perform background checks, request that a third party vendor conduct the checks, or request that the Records Custodian initiate Live Scan background checks on final candidates;
- Process background check documentation in accordance with this policy;
- Notify the hiring manager if the candidate passes the background check;
- Notify the appointing authority if adverse results are revealed in a candidate's background check;
- Provide a copy of the criminal records check and/or credit check results and the Pre-Adverse/Adverse Notice forms to candidates with adverse results;

- Work with the final candidate to resolve issues related to the background check and establish timelines for the final candidate to resolve issues as needed. This is applicable when the final candidate disputes the accuracy of information revealed through the background check;
- Notify hiring department that all background checks have been successfully completed and the selected candidate can begin working;
- Provide a copy of the criminal records check and/or credit check results to candidates who request a copy of the results;
- Identify who is to be notified if a criminal records check reveals an active warrant for a candidate; and
- Maintain confidentiality of background check information.

C. Role: Decision Maker(s)

The Decision Maker(s) will be responsible for reviewing results of a background check that discloses information that may disqualify a candidate from employment. The Decision Maker(s) will:

- Be selected by the campus;
- Be well-trained and supported to ensure the consistency of the application;
- Consult with Human Resources, Chief of Police, and/or assigned counsel in cases when a decision to hire is uncertain based on a final candidate's background check results and additional consultation is needed;
- Otherwise maintain confidentiality of background check information;
- Assess and make a decision on the final candidate's suitability for the position based on background check results; and notify the background check coordinator that the results of a background check disqualified the candidate from being appointed.

D. Role: Records Custodian

The campus will identify one location and designate one Records Custodian (who may also be the background check coordinator) to:

- Be authorized by the Department of Justice to fingerprint candidates for Live Scan background checks (visit <http://oag.ca.gov/fingerprints/custodian> for details);
- Keep all background check records (including the CORI) in a location that is secure and separate from the employee's official personnel file; and
- Maintain and destroy the CORI no later than the termination of the new hire's employment or two (2) years from rejection due to the CORI.

HR 2017-17
Attachment D
References/Appendices

APPENDICES

- Attachment D1: Governing Laws and Definition of Terms
- Attachment D2: Sample Form for Campus Request for Information From Applicant/Employee and Accompanying California Information Practices Act (IPA) Notice
- Attachment D3: Sample Form for Applicant/Employee Disclosure Statement Fair Credit Reporting Act-Investigative Consumer Reporting Agencies Act (FCRA-ICRA)
- Attachment D4: Sample Form for Applicant/Employee Authorization FCRA-ICRA
- Attachment D5: Summary of Rights Under FCRA
- Attachment D6: Sample Consumer Credit Report Disclosure and Authorization Form
- Attachment D7: Sample Letters to Applicants and Employees with Adverse Background Check Results
- Attachment D8: Confidentiality Agreement Form
- Attachment D9: Links to Websites/Resources

Attachment D1 Contents:

- I. Governing Laws
 - A. Fair Credit Reporting Act (FCRA)
 - B. California Investigative Consumer Reporting Agencies Act (ICRA)
 - C. California Information Practices Act (IPA)
 - D. California Consumer Credit Reporting Agencies Act (CCRAA)
 - E. California Labor Code §1024.5
 - F. California Labor Code §432.3
 - G. California Labor Code §432.7
 - H. California Labor Code §432.8
 - I. California Education Code §10911.5 (a)
 - J. California Government Code § 12952 (FEHA)

II. Definition of Terms

I. GOVERNING LAWS

California State University (CSU) background checks are subject to a number of federal and state statutes. These include the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, *et seq.*; the Investigative Consumer Reporting Agencies Act (ICRA), CA Civil Code § 1786, *et seq.*; the Information Practices Act (IPA), CA Civil Code § 1798, *et seq.*; the Consumer Credit Reporting Agencies Act (CCRAA), CA Civil Code § 1785.1, *et seq.*; CA Labor Code § 432.3, 432.7, 432.8, and 1024.5; and CA Education Code § 10911.5(a) and CA Govt. Code § 12952 (California Fair Employment and Housing Act (FEHA)). Detailed information on the statutes and citations to the full text of the laws are provided below:

A. Fair Credit Reporting Act (FCRA)

The FCRA, 15 U.S.C. § 1681, *et seq* governs “consumer reports” issued for multiple purposes, including credit checks, and employment background checks for the purposes of “hiring, promotion, retention or reassignment.” If the campus conducts the background investigation itself, the FCRA provisions do not apply. FCRA applies when the campus uses an outside consumer reporting agency to conduct a background check and requires the agency to:

- Give the individual notice on a separate document that consists solely of the notice that a report may be obtained.
- Obtain the individual’s permission in writing for preparation of the report and obtain specific permission if medical information is requested.
- Give a special notice if the individual’s neighbors, friends or associates will be interviewed about character, general reputation, personal characteristics or mode of living. This is called an “investigative consumer report” under FCRA.
- The campus must give a “pre-adverse action notice” along with a copy of the background report before an adverse action is taken. For applicants an adverse action occurs when the campus decides not to hire the individual based on information in the report. For existing employees, an adverse action might be a termination, a demotion or a decision not to promote the employee.
- Disclose to the individual a summary containing the nature and substance of the consumer report on which the adverse action was based, except that the sources of information need not be disclosed.

- Give individuals a second notice after an adverse action, telling them how to dispute inaccurate or incomplete information.
- Upon receiving a request to provide the individual with a copy of the consumer report, the campus must provide the report within 3 business days along with a copy of the consumer's rights as prescribed by the Federal Trade Commission under 609(c)(3).

The FCRA text and information about the law is available at:

<http://www.ftc.gov/os/statutes/031224fcra.pdf>.

B. California Investigative Consumer Reporting Agencies Act (ICRA)

The CSU is subject to the provisions of the ICRA, CA Civil Code § 1786, *et seq.* The ICRA applies when the university uses a third party vendor to conduct background checks. Civil Code § 1786.16 requires prior approval by the subject of the background check and notice to the individual, including:

- A clear and conspicuous disclosure in writing to the applicant or employee before the investigative consumer report is procured from an outside vendor in a document consisting solely of the disclosure, that includes:
 - A statement that an investigative consumer report may be obtained;
 - The permissible purpose of the report;
 - A statement that the disclosure may include information on the subject's character, general reputation, personal characteristics, and mode of living;
 - The name, address, and telephone number of the outside vendor;
 - The nature and scope of the requested investigation and information on how the subject may inspect the outside vendor's investigatory files.

The text of ICRA is available at

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6A.&part=4.&chapter=&article=1. Further information about ICRA is available at <http://oag.ca.gov/privacy>

C. California Information Practices Act (IPA)

The IPA, CA Civil Code § 1798, *et seq.*, restricts the maintenance and dissemination of personal information. The IPA applies to the university if the campus conducts its own background checks. Civil Code § 1798.17 requires state agencies that collect personal information about a subject person from a third party to provide notice to the third party of the following:

- The name of the agency and the division within the agency that is requesting the information.
- The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.
- The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.
- With respect to each item of information, whether submission of such information is mandatory or voluntary.
- The consequences, if any, of not providing all or any part of the requested information.

- The principal purpose or purposes within the agency for which the information is to be used.
- Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of § 1798.24.
- The individual's right of access to records containing personal information which are maintained by the agency.

The IPA also requires a state agency (including the university) to disclose the personal information to the individual to whom the information pertains unless the information is exempt from disclosure under Civil Code § 1798.40.

The IPA text and information about the law is available at:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=1798.40.

More information about the IPA can be found at: <http://oag.ca.gov/privacy>.

D. California Consumer Credit Reporting Agencies Act (CCRAA)

The CCRAA, CA Civil Code § 1785.1, *et seq*, regulates consumer credit reporting agencies. If the University uses an outside vendor to obtain a credit report on a candidate for employment this law applies.

The text of the CCRAA is available at:

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6.&part=4.&chapter=1.&article=#.

More information about the CCRAA can be found at: <http://oag.ca.gov/privacy>

E. California Labor Code §1024.5

California Labor Code 1024.5 restricts the circumstances under which an employer may obtain a copy of an individual's credit report for employment purposes. The campus may obtain a credit report only if the individual is applying for or works in the following kinds of positions:

- Managerial positions
- Positions with the state Department of Justice
- Sworn peace officers or other law enforcement positions
- Positions for which the information contained in the credit report is required by law to be disclosed or obtained
- Positions that involve regular access (for any purpose other than the regular solicitation and processing of credit card applications in a retail establishment) to all of the following types of personal information of any one person: bank or credit card account information, social security number, and date of birth
- Positions in which the person is, or would be a named signatory on the bank or credit card account of the employer, authorized to transfer money on behalf of the employer, or authorized to enter into financial contracts on behalf of the employer
- Positions that involve access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of

the information, and (2) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information

- Positions that involve regular access to cash totaling \$10,000 or more of the employer, a customer, or client, during the workday.

The text of Labor Code § 1024.5 is available at:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=1024.5.

F. California Labor Code §432.3

- (a) An employer shall not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant.
- (b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment.
- (c) An employer, upon reasonable request, shall provide the pay scale for a position to an applicant applying for employment.
- (d) Section 433 does not apply to this section.
- (e) This section shall not apply to salary history information disclosable to the public pursuant to federal or state law, including the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) or the federal Freedom of Information Act (Section 552 of Title 5 of the United States Code).
- (f) This section applies to all employers, including state and local government employers and the Legislature.
- (g) Nothing in this section shall prohibit an applicant from voluntarily and without prompting disclosing salary history information to a prospective employer.
- (h) If an applicant voluntarily and without prompting discloses salary history information to a prospective employer, nothing in this section shall prohibit that employer from considering or relying on that voluntarily disclosed salary history information in determining the salary for that applicant.
- (i) Consistent with Section 1197.5, nothing in this section shall be construed to allow prior salary, by itself, to justify any disparity in compensation.

The text of Labor Code § 432.3 is available at

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB168

G. California Labor Code §432.7

An employer may not seek information about the arrest or detention of an applicant that did not result in a conviction or use the information as a factor in an employment decision. Convictions do not include information concerning an arrest or detention that did not result in a conviction, or information concerning a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed, expunged or ordered sealed pursuant to law. A conviction includes a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the court. An employer may ask an applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

With respect to juvenile offenses, California law also prohibits employers from asking about, considering or seeking from sources any information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication or court disposition that occurred while you were subject to the process and jurisdiction of juvenile court law.

The text of Labor Code §432.7 is available at:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=432.7.

H. California Labor Code §432.8

An employer may not seek information about an applicant's conviction of certain minor marijuana-related offenses if more than two (2) years have elapsed since the date of conviction or use the information as a factor in an employment decision.

The text of Labor Code §432.8 is available at:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=432.8.

I. California Education Code § 10911.5 (a)

Every public recreation program employer shall require each employee having direct contact with minors to immediately submit one set of fingerprints to the Department of Justice. This requirement is a condition of employment.

The text of Education Code § 10911.5 (a) is available at:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=10911.5.&lawCode=EDC.

J. California Government Code §12952 (FEHA)

Employers may not include on any application for employment any question that seeks the disclosure of an applicant's conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a criminal history background check to exclude all information concerning a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that that has been judicially dismissed, expunged or ordered sealed.

The law also requires employers, any time that they intend to deny an applicant a position solely or in part due to the applicant's conviction history, to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job.

Finally, the law provides that the employer provide certain procedural protections to the applicant before making a final decision to deny the application a position of employment. Included among these protections is a right to a written notice of a preliminary adverse decision that gives the applicant an opportunity to respond within five business days before the employer makes a final decision. The law requires the employer to provide the

applicant with a final written notice of adverse decision if it plans to deny the position and to include specified topics in the notice.

II. DEFINITION OF TERMS

Adverse Action	An action that adversely affects an employee or applicant, may include elimination from further consideration for an employment opportunity, demotion, suspension, or termination
Applicant	An individual seeking employment or an employee that applies for a position within the CSU
Appointee	An individual deemed to have an affiliation with the University that may or may not be an employment relationship
Background Check	A process of acquiring/verifying/validating records or information on an applicant that are used to determine suitability for employment. Types of background checks include: employment verification, education verification, reference check, criminal records check, credit report history check, motor vehicle records/licensing check, sexual offender registry check, and professional licensing, certification, and credential verification. Fingerprinting may be used to accomplish a criminal records check
Background Check Coordinator	Employee designated to administer the background check process for the positions specified in this policy and for those campuses who conduct their respective background check processes
Camp or Clinic	Any camp and/or clinic in which minor children participate and which is run by the CSU. Also included are camps and/or clinics in which minor children participate that are not run by the CSU but the campus either conducts the criminal records check of its employees or is informed of the results of the criminal records check of its employees
Candidate	An individual being considered for an appointment
Consultant	An individual or business entity engaged in a compensatory relationship with the CSU to perform specific services over a specific duration. Consultants may include Independent Contractors and Special Consultants (employees appointed via classification code 4660)
Credit Report History Check	Used to review an applicant's financial history if the position has been specifically named in CA Civil Code § 1785.1, <i>et seq</i> and contains duties, responsibilities, or access that could affect the institution financially
Criminal Conviction	Being found guilty, entering a guilty plea, or pleading no contest to felony or misdemeanor
Criminal Offender Record Information (CORI)	A person's criminal history results produced by Live Scan or equivalent criminal records check vendor
Criminal Records Check	A type of background check used to obtain any criminal offender record information, including a check of State or Federal criminal history databases with the use of Live Scan or other similar means
Criminal Records Check Agency	The agency used to conduct the criminal records check
CSU	California State University
Current Employee	An existing employee in an active or on leave employment status with the CSU
Decision Maker(s)	The person(s) selected by the campus to be responsible for reviewing results of a background check that disclose information that may disqualify a candidate from employment.
Education and Credential Verification	A type of background check used to verify if a degree or credential was issued and to confirm the date awarded

Employee	An individual appointed to a compensated position by the CSU in exchange for employment services. Includes individuals appointed in the Special Consultant classification code 4660
Employment Verification	A type of background check used to verify dates of employment, position, salary and other employment-related history
Fingerprint Check	A type of background check in which a candidate or applicant's digitally scanned fingerprints are obtained for the purposes of conducting a criminal records check
Guest	An individual with an affiliation with the CSU that is not employment-related, but one in which specific services may be performed for the CSU at the request or by invitation of the CSU
Independent Contractor	A business entity, including individuals that are self-employed that contract to perform services with the CSU. Does not include Special Consultant (Class Code 4660) employees
Level 1 Data	The first level of data classification that the CSU has adopted regarding the level of security placed on particular types of information assets. Level 1 data is "Confidential Information" that include but are not limited to: PINs (Personal Information Numbers), tax IDs with name, Social Security Number and name, health insurance information, biometric information, criminal background check results, electronic or digitized signatures, and private keys (digital certificates). For more information, refer to ICSUAM's policy on Information Security Data Classification at https://csyou.calstate.edu/Policies/icsuam/Documents/8000/8065_FIN_AL_DRAFT_Data_Classification_CW_V4.pdf . Under this policy, employees who have access to Level 1 data (including student workers), are required to undergo a background check
Minor	Anyone under the age of 18. For CSU bargaining unit employees working at camps or clinics in which minor children participate, a minor is anyone under the age of 18 at the start of the camp/clinic
Motor Vehicle Records / Licensing Check	A type of background check used to determine a candidate's past driving records and/or to ensure that the candidate is authorized to operate various types of machinery or equipment as required by the position
New Hire	Any final candidate hired into an open position. This may include current CSU employees who transfer from one campus to another
Professional Licensing / Certification Verification	A type of background check used to verify that professional licenses are up-to-date and valid for practice. Verifications may also be required to check prior suspensions of a license or disciplinary actions taken against a candidate through the licensing board or other appropriate source
Records Custodian	An employee responsible for retaining the results of a background check
Recreational Camp or Clinic	A camp or clinic on CSU premises typically for minor children that include but are not limited to sports, dance, music, academics and other disciplines
Reference Check	A type of background check that includes verbal and/or written checks used to assess an applicant's work history and skills using standardized questions structured for job specific inquiries
Represented Employee	An employee represented under a collective bargaining agreement between the CSU Board of Trustees and the respective collective bargaining representative

Sensitive Position	A position designated by the CSU as requiring heightened scrutiny of individuals holding said position, based on potential for harm to children, concerns for the safety and security of people, animals, or property, or heightened risk of financial loss to the CSU or individuals in the university community
Sexual Offender Registry Check	A type of background check used to determine if a candidate has been included in any state sexual offender registry
Student Worker	A CSU student appointed in a CSU non-represented and/or represented student classification, whose educational relationship with the university is predominant
Volunteers	Individuals who perform specific services for the CSU on a voluntary basis, including employees who work or will work with camps and/or clinics run by the CSU in which minor children participate. Volunteers may or may not be CSU employees

Sample Form

California State University [campus]
Campus Request For Information from Applicant/Employee and
Accompanying California Information Practices Act Notice

Print Name: _____		
_____ Last	_____ First	_____ Middle
Birth Date: _____	Social Security #: _____	Driver's License #: _____
Business Phone #: _____	Home Phone #: _____	Email: _____
Current Address: _____		
Other Names you have used: _____		
Have you ever been convicted of a crime: Yes <input type="checkbox"/> No <input type="checkbox"/>		
If yes,		
_____	_____	_____
Crime	Date	City/County/State
_____	_____	_____
Crime	Date	City/County/State
_____	_____	_____
Crime	Date	City/County/State

Signature: _____

Date: _____

Information Practices Act Notice (Civil Code § 1798.17)

This information is being requested by [CSU campus]. [Name of campus] is authorized to maintain this information pursuant to Education Code §§ 89500, 89535, [state any other authority relevant here, including any executive orders or coded memoranda.]. Submission of the information requested on this form is mandatory. Failure to provide the requested information will mean that you will be ineligible for the position you are seeking. The principal purpose for which this information is to be used is to assist the University in evaluating your eligibility, qualifications, and suitability for the position you are seeking. You have a right of access to records containing personal information maintained by [CSU campus]. The name, business address and telephone number of the person at [campus] who is responsible for maintaining the requested information and will be able to inform you of the location of this information is: [name, address, telephone no.].

Sample Form

California State University [campus]
Applicant/Employee Disclosure Statement
Fair Credit Reporting Act-Investigative Consumer Reporting
Agencies Act (FCRA – ICRA)

In connection with your application for employment or consideration of you for a different position at the [campus] (“University”), a consumer report or an investigative consumer report may be obtained. The University will determine in its sole discretion which positions require background checks. The University will obtain any such reports from [\[name, address, telephone number and website of the specific consumer reporting agency to be used\]](#).

The background check may include information concerning your employment history, education, qualifications, motor vehicle record, character, general reputation, personal characteristics, social security verification, police and criminal records, civil records, workers’ compensation claims, credit and indebtedness history, and mode of living, and may be obtained from public records, through personal interviews with your neighbors, friends, or associates or with others with whom you are acquainted or who may have knowledge concerning the above items of information, in compliance with applicable law.

Attached to this Disclosure Statement are: (1) a summary of your rights under the federal Fair Credit Reporting Act (FCRA) 15 U.S.C. section 1681, *et seq.*; and, (2) a summary of the provisions of Civil Code § 1786.22, a section of the California Investigative Consumer Reporting Agencies Act (ICRA) that sets forth certain duties of investigative consumer reporting agencies to provide you with files and information.

You must acknowledge below receipt of this Disclosure Statement. You must also authorize in writing the procurement of the consumer report or investigative consumer report before such a report may be obtained. A separate authorization form is attached.

I hereby acknowledge that I have received the Applicant/Employee Disclosure Statement, FCRA – ICRA.

Signature: _____ Date: _____

Sample Form

California State University (campus)
Applicant/Employee Authorization
Fair Credit Reporting Act-Investigative Consumer Reporting Agencies Act
(FCRA – ICRA)

I, [\[individual's name\]](#), hereby authorize [\[CSU campus name\]](#) (“University”) to obtain a consumer report or an investigative consumer report about me from [\[name, address and website of specific investigative consumer reporting agency to be used\]](#) in connection with the University’s assessment and consideration of my application for employment or any other purpose(s) authorized by the CSU Background Check Policy. I acknowledge that I have received the Disclosure Statement and have read it and the attachments to it thoroughly.

If you would like to receive a copy of the investigative consumer report, if one is obtained, please check this box and you will be provided a copy within 3 business days of the date it is received by the

University.

I hereby authorize and request, without any reservation, any present or former employer, school, police department, financial institution, division of motor vehicle, consumer reporting agencies, or other persons or agencies having knowledge of me to furnish the University and/or [\[name, address, and website address of investigative consumer reporting agency to be used\]](#) with any and all background information in their possession regarding me which may be obtained pursuant to law, in order that my employment qualifications may be evaluated.

I also agree that a fax or photocopy of this authorization with my signature is to be accepted with the same authority as the original.

Signature: _____

Date: _____

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, *et seq.* promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C., 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - A person has taken adverse action against you because of information in your credit report;
 - You are the victim of identity theft and place a fraud alert in your file;
 - Your file contains inaccurate information as a result of fraud;
 - You are on public assistance;
 - You are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a credit, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.ftc.gov/credit.
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-5-OP-OUT (1-888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.

- **Identify theft victims and active duty military personnel have additional rights.** For more information, visit www.ftc.gov/credit.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:

TYPE OF BUSINESS:	CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 1-800-613-6743
Federal Reserve System member banks (except national banks and federal branches/agencies of foreign banks)	Federal Reserve Consumer Help (FRCH) PO Box 1200 Minneapolis, MN 55480 Telephone: 888-851-1920 Website Address: www.federalreserveconsumerhelp.gov Email Address: ConsumerHelp@FederalReserve.gov
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 1-800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 (703) 519-4600
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center 2345 Grand Avenue, Suite 100 Kansas City, Missouri 64108-2638 1-877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 (202) 366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 (202) 720-7051

**Consumer Credit Report
Disclosure and Authorization Form**

In connection with your application for employment with [campus] ("University"), the University will obtain a consumer credit report, as defined in the California Consumer Credit Reporting Agencies Act, Civil Code § 1785.1 *et seq.* In processing your application for employment, or if you are offered employment, at any time during your employment, the University may obtain a consumer credit report from a Consumer Reporting Agency for employment purposes concerning credit worthiness, credit standing, and credit capacity.

California law requires employers, except financial institutions subject to 15 US Code §§6801-6809 (the Gramm Leach Bliley Act), to describe the permissible purpose for which a credit report may be sought.

The position for which you are being considered is one of the following, as listed in California Labor Code § 1024.5:

___ A managerial position (defined as persons who manage the University or a department of the University, have the authority to make hiring/retention decisions, manage two or more persons, are exempt employees, and earn more than two times the state's current minimum wage).

___ A position with the state Department of Justice.

___ That of a sworn peace officer or other law enforcement position.

___ A position for which the information contained in the credit report is required by law to be disclosed or obtained.

___ A position that involves regular access, for any purpose other than the regular solicitation and processing of credit card applications in a retail establishment, to all of the following types of personal information of any one person:

(1) Bank or credit card account information.

(2) Social security number.

(3) Date of birth.

___ A position in which the person is, or would be, any of the following:

(1) A named signatory on the bank or credit card account of the employer.

(2) Authorized to transfer money on behalf of the employer.

(3) Authorized to enter into financial contracts on behalf of the employer.

___ A position that involves access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of the information, and (ii) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information.

___ A position that involves regular access to cash totaling ten thousand dollars (\$10,000) or more of the employer, a customer, or client, during the workday.

A summary of your rights under the Fair Credit Report Act, 15 U.S.C. §1681 *et seq.*, is attached to this form. If you disagree with the accuracy of any information in the report, you must notify University within five days of the receipt of the report and that you are challenging information in the report. University will not make a final decision on your employment status until you have had a reasonable opportunity to address the information contained in the report.

Note that if you are denied employment or an adverse employment action is taken on information obtained in the credit report, you will be notified and provided with a copy of the report as well as a written description of your rights under the Fair Credit Reporting Act.

California law requires that you check the following box to indicate your desire to receive a copy of the report.

Please forward to my attention at the following address a copy of the report:

Street: _____

City, State, Zip: _____

Acknowledgement and Consent:

I consent to this investigation and hereby authorize University to obtain a consumer credit report on my background for employment purposes only and acknowledge that I have been provided with a summary of my rights under the Fair Credit Reporting Act.

Name (Please print): _____

Signature: _____ Date: _____

**SAMPLE PRE-ADVERSE ACTION NOTICE
ON CAMPUS LETTERHEAD**

Date

By U.S. Mail and Email

Name of Candidate

Street Address

City State Zip

Email address

Re: Application for Employment with the California State University at [campus]
Pre-Adverse Action Notice
Background Check

Dear [Applicant name],

The California State University (CSU) received a Background Check Report in connection with your application for employment. The report prepared by Accurate Background, LLC includes potentially adverse findings that may affect your eligibility to work for the CSU. A copy of the Report and a Summary of Your Rights under the Fair Credit Reporting Act (FCRA) are included with this letter.

You have the right to submit additional information to the California State University and request further consideration for employment within five business days of your receipt of this letter. Please submit your request for reconsideration and additional information to:

[Background Check Coordinator
California State University at (campus)
Address
Email address]

The CSU will conduct an individualized assessment including all information you submit and will notify you whether you will be considered or are excluded from consideration for the position. If you do not respond within 5 business days, the CSU will make its employment decision in whole or in part based on the information that it has obtained from Accurate Background. The University will take into account the following kinds of factors:

- That you were not correctly identified in the criminal record or that the record is otherwise inaccurate;
- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which you were convicted;
- The time that has passed since the date of the conviction, or release from prison;
- Evidence that you performed the same type of work post-conviction with the same or a different employer with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;
- Rehabilitation efforts;

- Employment or character references and any other information regarding fitness for the particular position, and
- Whether you are bonded under a federal, state or local bonding program

You have the right to dispute the accuracy of any information in the report by contacting Accurate Background within five business days of your receipt of this letter. Please direct those requests to:

Accurate Background, LLC
7515 Irvine Center Drive
Irvine, CA 92618
(800) 216-8024
(800) 784-3593 fax
www.accuratebackground.com

Sincerely,

[Name
Background Check Coordinator, California State University (campus)]

Enclosures: Accurate Background Report
Summary of Rights under FCRA
CA Civil Code 1786.22

*****NOTE: Campuses that are subject to the Information Practices Act (IPA) (e.g., conduct their own background checks and/or utilize Live Scan) should remove all references to the federal Fair Credit Reporting Act (FCRA).]**

**SAMPLE ADVERSE ACTION NOTICE
ON CAMPUS LETTERHEAD**

Date

By U.S. Mail and Email

Name of Applicant

Street Address

City State Zip

Email address

Dear [Applicant name],

The California State University (CSU) reviewed the results of your Background Check and any additional information and documentation you submitted for consideration. We regret to inform you that you are disqualified from employment in the position for which you applied.

If you disagree with the decision reached in this letter, you have the right pursuant to California Government Code § 12952(c)(5)(C) to file an administrative complaint with the California Department of Fair Employment and Housing. [MPP employee denied promotion or different job: You also have the right to request reconsideration of this decision pursuant to CSU Executive Order No. 1106.]

This decision was made in whole or in part based on information in a consumer background investigative report done, at our request, and provided by Accurate Background, LLC. We provided you with a copy of the report with our previous letter. Under the Fair Credit Reporting Act (FCRA) you have the right to obtain another copy of the report and your file from Accurate Background, LLC. You are entitled to a copy, free of charge, if you make a written request within the next 60 days. Please direct requests to:

Accurate Background, LLC
7515 Irvine Center Drive
Irvine, CA 92618
(800) 216-8024
(800) 784-3593 fax
www.accuratebackground.com

You also have the right to dispute the accuracy or completeness of any information contained in your background report directly with Accurate Background, LCC. Please understand, however, that Accurate Background LLC did not make the decision to disqualify you from employment and cannot provide you with further information about the decision.

Additionally, you have the right to file a complaint with the Department of Fair Employment & Housing.

Sincerely,

[Name

Background Check Coordinator, CSU (campus)]

[NOTE: Campuses that are subject to the Information Practices Act (IPA) (e.g., conduct their own background checks and/or utilize Live Scan) should remove all references to the federal Fair Credit Reporting Act (FCRA).]**

Confidentiality Agreement Human Resources

During the course of my employment with the [campus] (“University”), I may have access to sensitive and/or personal information regarding our students, employees, and applicants. Information may include, but is not limited to, confidential personnel data, employment applications, and files in various forms. Such information is treated in a confidential manner and should not be part of any public or private conversation. With respect to these records and information, and all other confidential and proprietary University information and records, I have read, understand, and agree to the following:

1. I acknowledge the confidentiality of all student, employee, and applicant information and records and other confidential and proprietary University information and records. This information will not be revealed to or distributed to or discussed with anyone other than my supervisor and appropriate University officials.
2. I will not attempt to alter, change, modify, add, or delete student, employee, or applicant record information or University documents unless specifically instructed to do so by supervisor or appropriate University officials.
3. Personal or identifying information about University employees and applicants (such as name, address, telephone, number, performance reviews, and/or salaries) will not be released to unauthorized individuals or agencies, without the consent of Human Resources or other appropriately designated University official.
4. I will access only information specified and authorized by my supervisor or appropriate University official. Access to information should be through normal departmental procedures for obtaining specific access to the information in written documents, computer files, student records, or other University information.
5. I understand that information acquired during the course of my work assignments may not be utilized for personal gain or benefit.
6. All procedures, creative work, written documents, records, and computer programs are created and documented according to University policies and procedures. These materials are considered the property of the University and are not for public disclosure or use.

If I am in doubt about a request for information, I understand that it is my responsibility to discuss the request with a manager or director within Human Resources prior to a decision to release the information.

I understand that the unauthorized release or removal of confidential records and information is strictly prohibited and grounds for immediate disciplinary action, up to and including termination, and may also be subject to legal action. Further, I understand that certain information is not authorized for release to other University employees unless there is a legitimate business need to know.

Name: _____

Signature: _____

Date: _____

HR Signature: _____

Date: _____

Links to Websites/Resources

Description	Link
<i>Attachment A: Background Check Policy Requirements and Checking Practices</i>	
California Commission on Peace Officer Standards and Training (P.O.S.T.)’s background check requirements for Police Dispatchers	http://www.post.ca.gov/overview-selection-standards.aspx
CSU’s Records Retention Policy	www.calstate.edu/recordsretention/
CSU’s Selection of CSU Police Personnel and Police Officer Testing policy	https://csyou.calstate.edu/Policies/HRPolicies/HR2008-24.pdf
Executive Order 1083	https://www.calstate.edu/eo/EO-1083.pdf
Federal Bureau of Investigation for national sexual offender registry search	www.fbi.gov/scams-safety/registry
HR Letter 2006-03	http://www.calstate.edu/HRAAdm/pdf2006/HR2006-03.pdf
HR Letter 2014-03 and HR 2014-03 Supplement #1	http://www.calstate.edu/HrAdm/pdf2014/HR2014-03.pdf http://www.calstate.edu/HrAdm/pdf2014/HR2014-03SUP1.pdf
HR/Appointments 2014-01	http://www.calstate.edu/HRAAdm/pdf2014/TL-APPT2014-02.pdf
Information Security Management’s Information Security Data Classification Policy	https://csyou.calstate.edu/Policies/icsuam/Documents/8000/8065_FINAL_DRAFT_Data_Classification_CW_V4.pdf
Integrated CSU Administrative Manual (ICSUAM)	http://www.calstate.edu/icsuam
Integrated CSU Administrative Manual’s Information Security Policy	http://www.calstate.edu/icsuam/sections/8000/8030.0.shtml
Megan’s Law for CA sexual offender registry check	http://www.meganslaw.ca.gov/
U.S. Department of Justice for national sexual offender registry search	www.nsopr.gov
<i>Attachment C: Roles and Responsibilities</i>	
State of California Department of Justice’s Custodian of Records	http://oag.ca.gov/fingerprints/custodian

Attachment D: References/Appendices	
California Consumer Credit Reporting Agencies Act (CCRAA) full text	http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6.&part=4.&chapter=1.&article=#
California Information Practices Act (IPA) full text	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1798.40 .
California Investigative Consumer Reporting Agencies Act (ICRA) full text	http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6A.&part=4.&chapter=&article=1 .
California Labor Code §1024.5 full text	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1024.5
California Labor Code §432.7 (a) full text	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=432.7
California Labor Code §432.8 full text	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=432.8
Fair Credit Reporting Act (FCRA) full text	http://www.ftc.gov/os/statutes/031224fcra.pdf
Federal Reserve Consumer Help (FRCH) website	www.federalreserveconsumerhelp.gov
Federal Trade Commission's Consumer Information	www.ftc.gov/credit
More information on ICRA, IPA, CCRAA	http://oag.ca.gov/privacy
Government Code §12952	https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1008
California Labor Code §432.3	https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB168
California Education Code §109.11.5(a)	http://codes.findlaw.com/ca/education-code/edc-sect-10911-5.html