

Policy and Procedures for Fingerprinting and Conducting Background Checks

A. Introduction

Beginning in 1974, the California State University system began requiring that campuses obtain the fingerprints of all new hires and conduct background checks through the Department of Justice. The policy was modified over the years to focus on those who fill certain designated positions, particularly those who work in child care, residence halls, health centers, those who handle cash, student records and financial data, or who work in budget, accounting and payroll offices, or who have access to master keys and pass keys, or those in positions usually requiring bonding.

Later, when campuses were delegated the authority to continue fingerprinting, California State University, Fresno did continue this practice. Thus, for many years the University has had a procedure in place to fingerprint all new employees to staff and management positions. Background checks have been done only on those in positions whose duties are consistent with those outlined above. Copies of past executive orders are in Appendix A.

As sensitivity to identify theft and security heightened in the ensuing years, so did interest in revisiting the system-wide policy. In March 2005, the Chancellor's Office distributed new instructions to campuses outlining the types of background checks that are to be performed and reconfirming the authority of each campus to conduct such checks.

B. Policy

The need to protect the University learning and working environment must be balanced with the need to protect the privacy of the applicant or employee. Background checks may include checks of employment records, degrees and certifications, social security records, workers' compensation claims, criminal records, civil records, credit reports, motor vehicle records, and in some cases sex offender registries.

(1) For Staff, Confidential and Management Employees: Designated University employees appointed for more than ninety (90) days, and successful candidates for designated Sensitive Positions lasting more than ninety (90) days shall be fingerprinted; provided, however, an employee appointed for less than 90 days in a position responsible for the care, supervision, or discipline of minor children as determined in subsection B(2) shall be subject to a background check that shall include, at a minimum, fingerprinting and receipt of a criminal history statement, and the results of such check shall be reviewed and cleared prior to the employee undertaking these responsibilities. Candidates who are to be hired, and employees of the University who are appointed or transferred to Sensitive Positions¹ or who acquire new job duties that are within the scope of a Sensitive Position are required to undergo a background check.

A background check shall be conducted on successful candidates for all Sensitive Positions appointed for more than ninety (90) days, including volunteers and consultants performing duties considered comparable to those of Sensitive Positions. The background check will normally be completed prior to the effective date of appointment and, in any case, the appointment shall be contingent on successful completion of a background check. The new or promoted employee may work while the results of the background check are being obtained by the University.

¹ Defined in Appendix C. The President may add or delete classifications at any time.

(2) For Prospective and Incumbent Faculty, Staff, and Management Personnel: Members of the faculty, staff, and management, new hires and volunteers shall be subject to background checks (including, as appropriate, criminal records, motor vehicle records, and sex offender registries) as a condition of gaining University clearance to perform any of the following:

- (1) Work in connection with any day-care program, camp or clinic offered to minor children and hosted by the University when the employee has responsibility for the care, supervision, or discipline of such minors (for the purpose of this provision, a “day-care program, camp or clinic refers to any such activity that involves minors and is run by the University or is a day-care program, camp or clinic not run by the University but the campus either conducts the background check of University employees producing a criminal history statement or is informed of the results of such background check of University employees);
- (2) Direct supervision of non-matriculated students who are minors, such as teaching at University High School, mentoring Science Fair students, etc.; and/or
- (3) Research on human subjects who are minors (not including matriculated students);

Should questions arise regarding whether an activity, event, day-care program, camp or clinic involving minor children is subject to this policy, the following criteria shall be evaluated by the manager of the event or activity:

- (1) Amount & Nature of Supervision
 - (a) the degree to which University employees are responsible for the care, supervision, or discipline of minors or whether such responsibility will devolve upon the employee due to the absence of chaperones or other care-givers; and
 - (b) the ratio of adults (including both University employees and external chaperones) to children
- (2) Duration and Itinerary
 - (a) the length of the event or activity;
 - (b) whether the event or activity has a planned schedule or itinerary;
 - (c) the degree to which minor participants and employees be allowed discretion in their activities; and
 - (d) the degree to which participants will be either one-on-one with any adult or be allowed to move around the campus without direct supervision.

Prior to scheduling an activity, event, day-care program, camp or clinic involving minor children, the responsible manager must obtain a written determination from either the AVP for Human Resources or the AVP for Faculty Affairs, which specifies either: a) the event or activity is not subject to this policy; or b) the requirement that University personnel involved must undergo a background check based on the criteria above.

C. Procedures

The purpose of these procedures is to establish protocols and guidelines for background checks which maintain the public trust and protect the students and employees of the University by ensuring a thorough hiring process. *These procedures do not apply in instances where the campus is conducting an investigation of a current employee for alleged wrongful conduct. The procedures may vary for sworn positions in public safety and for dispatchers, where additional rules apply.*

1. Departments Affected

All organizational units of the University are covered by this policy.

2. References (see Appendix A for b, c, e and f)

- a) Education Code Section 89535 (g) and (h) ²
- b) FSA 82-31, Revision of Policy on Fingerprinting of Employees
- c) FSR 85-72 Fingerprinting Practices
- d) HR 2002-23 Selection of CSU Police Personnel and Police Officer Testing
- e) HR 2005-10 Background Checks
- f) HR 2008-25 Background Checks – Update: CSU Employees Working at Sports Camps and Clinics
- g) HR 2012-04 Background Checks Update: Criminal Records Checks for CSU Bargaining Unit Employees Working at Camps and Clinics in which Minor Children Participate

3. Definitions

- a) Candidate – an individual who files an employment application for a posted vacancy, has gone through a recruitment and selection process, and has been identified as the nominee for the vacancy. For the purposes of this policy, individuals identified as nominees for a Faculty vacancy (to be employed by the University in CSU Bargaining Unit 3) are only included in this definition if they are applying for Sensitive Positions.”
- b) Employee – an individual who is currently employed by the University.
- c) Faculty – an individual who is employed by the University in CSU Bargaining Unit 3.
- d) Volunteer - anyone who has been approved by a manager to work for the University without compensation and who has completed the Volunteer Application and Appointment Form.
- e) Volunteer - anyone who has been approved by a manager to work for the University without compensation and who has completed the Volunteer Application and Appointment Form.
- f) Consultant – anyone who is compensated by the University pursuant to the policy on hiring consultants.
- g) Release Form – a campus approved form (see Appendix B) indicating the type of background check(s) to be conducted. The form shall be signed and returned by the candidate, employee, volunteer or consultant prior to the initiation of the background check.

² Education Code 89535 reads "Any Permanent Or Probationary Employee May Be Dismissed, Demoted, Or Suspended For The Following Causes: ... (G) Conviction Of A Felony Or Conviction Of Any Misdemeanor Involving Moral Turpitude (H) Fraud In Securing Appointment ...

- h) Sensitive Positions – Per HR 2005-10, HR 2008-25, and HR 2012-04 positions requiring a background check may involve, but are not limited to, those which have:
1. responsibility for the care, safety and security of adults or property ,
 2. responsibility for or the care, supervision, security, or discipline of minors as described in subsection B(2).
 3. direct access to, or control over, cash, checks, credit cards, and/or credit card account information,
 4. authority to commit financial resources of the University through contracts greater than \$5,000,
 5. control over campus business processes, either through functional roles or system security access,
 6. access to detailed personally identifiable information about students, faculty, staff or alumni, which might enable identity theft,
 7. access to controlled substances, or
 8. possession of building master or sub-master keys for building access, or regular access to such keys.

Examples of the above include all management (MPP), coaching, health center, child care center, and public safety positions. Positions in the sciences and on the farm that have access to dangerous or radioactive chemicals are included. Also included are all positions for which a background check is required by law, and candidates for any position who indicate or admit to a felony conviction or conviction of certain misdemeanors at the time of application. A complete list of affected positions is in Appendix C.

Criminal History Statement – the results of the background check completed by the California Department of Justice in Sacramento and the FBI National Crime Information Center after information has been digitized in local, state, and federal files that indicate all arrest and conviction records on a candidate. The Department of Justice may submit the Criminal History Statements to the Chief of Police, the Associate Vice President for Human Resources, or the Associate Vice President for Faculty Affairs, depending on the method of fingerprinting used. Information from traditional hardcopy fingerprinting is returned to the Chief of Police. Results from the Live Scan process are returned to the others listed. A background check producing a criminal history statement is required for all sensitive positions.

- i) Detailed Personally Identifiable Information which Might Enable Identity Theft – based on California Civil Code Section 1798.29, personal information means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:
1. social security number,
 2. driver's license number or California Identification Card number, or
 3. an account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

4. Responsibilities of Human Resources and Faculty Affairs

a) Initiating the process

Human Resources and Faculty Affairs will provide the candidate, employee, volunteer or consultant with information and necessary forms to be completed for a background check. Any fingerprint form provided to the candidate, employee or volunteer, including a Livescan form, shall indicate that a criminal record check shall be submitted to the California Department of Justice and the FBI National Crime Information Center. All documents associated with the background check must be returned to the appropriate personnel office. If an external recruiting firm is used to assist with a recruitment, the firm may conduct its own background checks. In that case, written confirmation from the firm will suffice as proof that the appropriate background checks have been conducted in compliance with this policy.

b) Receiving results from fingerprints

If the background check is generated through the automated fingerprint process, Live Scan, then results will be electronically sent and accessed by one of the Live Scan Administrators, either the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs. If the background check is generated through the manual fingerprint process, the Chief of Police will contact the Associate Vice President for Human Resources or Associate Vice President for Faculty Affairs if a Criminal History Statement is returned on a candidate or employee as part of the employment process.

c) Decisions about employment

The review of a criminal history report will be conducted by the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs, in consultation with other administrators to determine whether a criminal conviction precludes employment or reassignment. If an individual has a criminal case pending, his or her suitability for continued employment may be reviewed upon disposition of the case.

The determination as to whether a criminal record or other background check results may preclude employment is based on a review of the job duties and the nature of the background check results. If the background findings are unrelated to the assigned job duties, they will normally not preclude employment. Alternatively, certain types of convictions will automatically preclude hiring or promoting individuals into Sensitive Positions. For example, individuals with convictions for theft, embezzlement, identify theft or fraud will not be hired into positions with fiduciary responsibilities. Each case will be reviewed on an individual basis taking into consideration the following criteria:

1. seriousness of the crime or misdemeanor,
2. relationship between the job duties and the conviction,
3. age of the candidate or employee at the time of the conviction,
4. applicant's conduct, performance and rehabilitation efforts since the conviction,
5. whether or not the conviction was revealed on the employment application, and
6. past determinations in similar circumstances.

The appropriate office will provide a summary of the results of the background check to the candidate or the employee.

If additional background reviews are necessary (as in the case of sworn personnel and dispatchers) all information requested of the candidate or employee will be sent by Human Resources to the appropriate vendor. The vendor will provide to the Vice President for Human Resources a report of all information collected, and a summary will be provided to the candidate or employee as required by applicable law.

5. Responsibility of Employee

Upon any conviction of a crime, other than a minor traffic violation³ an employee in a Sensitive Position is required to report the conviction immediately to the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs.

6. Appeal process

An appeal by the candidate or employee may be made to the appropriate vice president if the individual believes the information provided is inaccurate. The appeal will be referred to another vice president, not involved in the initial employment decision, whose decision shall be final.

D. Methods of conducting background checks

Background checks may be conducted by several means.

1. Live Scan

The Live Scan process is an automated fingerprinting process in which fingerprints are electronically scanned and sent directly to the California Department of Justice, which uses them to conduct a California and FBI criminal history search. For prospective Faculty and incumbent Faculty subject to background check under Section B., and for staff and management appointments to Sensitive Positions other than sworn police officers, this electronic process will normally be used. Human Resources or Faculty Affairs are responsible for ensuring that the processing is completed in a timely manner.

- a) The individual will be given a Live Scan request form (BC118016 or BC118016A) to complete and bring to the campus Police Department within ten (10) days of hire.⁴ This form serves as the Release Form. (see Appendix B)
- b) The individual will make an appointment with the campus Police Department to have fingerprints taken within 10 days of the effective date of hire.
- c) At the time of the appointment, the campus Police Department will take fingerprint impressions, process the Live Scan form, and electronically send the information to the Department of Justice.
- d) Results from the review by the Department of Justice can only be accessed electronically by the Live Scan Administrators, the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs.

³ Traffic convictions must be reported if the individual is responsible for operating university vehicles. All DUI convictions must be reported by any individual in a position of risk.

⁴ In the case of an individual hired or reassigned for a job that involves the care, supervision, security or discipline of minors, the Livescan request will be given to the employee, who will report to campus police, and the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs shall review and clear the fingerprint results prior to the individual undertaking such job.

- e) The Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs, in consultation with other administrators, will review results from the Department of Justice and determine if additional consultation is necessary, or if a job offer may be rescinded.
- f) If a job offer is rescinded, the individual will be provided with a copy of the information received from the Department of Justice.
- g) If a job offer is rescinded, the individual may appeal the decision to the appropriate vice president.
- h) After a decision has been made, the information necessary to document the hiring decision is noted in the recruitment file and all other reports are destroyed.

2. Manual Fingerprint Process

Taking fingerprints on a fingerprint card in order to conduct a criminal history search has been the long-standing practice of the University prior to the availability of new technology used in the Live Scan process described above. Although it is the intention of the University to use the electronic process, if it becomes necessary to use the hardcopy process, it is described below.

- a) The individual will be provided a Release Form to complete and return to Human Resources or Faculty Affairs within ten (10) days of hire.⁵ (see Appendix B)
- b) The individual will make an appointment with the Police Department to have the fingerprint card completed.
- c) The completed fingerprint card will be returned by the Police Department to Human Resources or Faculty Affairs.
- d) The fingerprint card will be mailed to the Department of Justice for a fingerprint review.
- e) The Department of Justice will return results of the fingerprint scan to the Chief of Police who will provide them to the Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs.
- f) The Associate Vice President for Human Resources or the Associate Vice President for Faculty Affairs, in consultation with other administrators, will review the results from the Department of Justice and determine if additional consultation is necessary, or if it may be necessary to rescind a job offer.
- g) If a job offer is rescinded, the individual may appeal the decision to the appropriate vice president.
- h) If a job offer is rescinded, the individual will be provided with a copy of the information received from the Department of Justice.
- i) After a decision has been made, the information necessary to document the hiring decision is noted in the recruitment file and all other reports are destroyed.

⁵ The provisions of footnote 4 apply to the manual process.

3. Other types of background checks:

Degree Verification: The University is required to verify the college degree for the final candidate for any position requiring a college degree and for anyone who states on his or her application that a college degree has been completed. This includes current employees being appointed to a new position. The University or search firm may contact the granting institution directly, or may ask the candidate or employee to request a certified copy of the transcript documenting the awarding of the degree.

Reference Checks: References checks shall be made for all candidates for any position. Contact may be made by the hiring manager or members of the search committee pursuant to the applicable hiring policy.

Credit Check: Depending on the specific job duties a credit check may be required. If a credit check is requested, applicable federal and state statutes shall be followed. These include the Fair Credit Report Act (FCRA; 15 U.S.C. Section 1681), the California Information Practice Act (Civil Code Section 1798.17), and the Labor Code (Section 432.7). The positions designated for credit checks are listed in Appendix C and include only the most senior level positions.

Department of Motor Vehicles: If a candidate or employee of the University is required to drive on university business, the individual's driving record shall be obtained from the Department of Motor Vehicles and may be reviewed by the Risk Manager. In some situations, where the need to drive is immediate, the candidate or employee may be required to provide the driving record from the Department of Motor Vehicles to the Risk Manager at the point of hire or before.

If a specialized driver's license is required for a position, the candidate for the position must provide proof of the specialized license. In certain cases, including but not limited to employees whose primary responsibility is driving or employees who routinely transport groups of students, faculty or staff, a more thorough Department of Motor Vehicles check may be conducted.

Professional Licenses: If a professional license is required for a position, the candidate must provide official proof of the professional license. The documentation provided by the candidate may be independently verified by the University.

	Recommended By the Senate	Approved by the President
Interim Policy		August 25, 2006
Interim Policy		March 25, 2009
Policy	March 21, 2011	August 15, 2011
Interim Policy		August 9, 2012
Policy	December 2, 2013	December 2013

Appendix A
Prior California State University System Executive Orders
and Technical Letters

1. FSA 82-31, Revision of Policy on Fingerprinting of Employees
2. FSR 85-72 Fingerprinting Practices
3. HR 2005-10 Background Checks
4. HR 2008-25 Background Checks – Update: CSU Employees Working at Sports Camps and Clinics
5. HR 2012-04 Background Checks Update: Criminal Records Checks for CSU Bargaining Unit Employees Working at Camps and Clinics in which Minor Children Participate
- 6.

Appendix B
Release Forms, Summaries of Rights, and
Live Scan Request Form

- 1.) Applicant/Employee Disclosure Statement FCRA – ICRA
- 2.) California Investigative Consumer Reporting Agencies Act (ICRA) A Summary of Your Rights Under California Law
- 3.) Applicant/Employee Authorization FCRA - ICRA
- 4.) Request for Information from Applicant/Employee and California Information Practices Act Notice

California State University, Fresno
Applicant/Employee
Disclosure Statement
FCRA - ICRA⁶

In connection with your application for employment or consideration for a different position at the University, a consumer report or an investigative consumer report may be obtained as part of a background check. The University has identified in Appendix C those positions that require background checks.

The consumer report, or investigative consumer report, will be used for employment purposes to evaluate an individual for: employment, promotion, reclassification, reassignment or retention as an employee. The University will obtain any such reports from [name, address and phone number 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 and personal characteristics as they relate you your job duties,
- social security verification,
- police and criminal records,
- civil records,
- workers' compensation claims,
- credit and indebtedness history (only for senior administrative positions).

This information may be obtained from public records, through personal interviews with your friends or associates 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); and 2) a summary of the provisions of Civil Code Section 1786.22, a section of the California Investigative Consumer Reporting Agencies Act (ICRA) that sets for 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.

Print name: _____

Signature: _____ Date: _____

⁶ FCRA: Fair Credit Reporting Act – Applies only when an employment background check is prepared by an outside screening company.

ICRA: California Investigative Reporting Agencies Act – Applies when a third party conducts the background check.

California Investigative Consumer Reporting Agencies Act (ICRA)

A Summary of Your Rights Under California Law

Under California law, upon presentation of proper identification⁷ you are entitled to find out from an investigative consumer reporting agency (CRA) what is in your file as follows:

1. In person, by visual inspection of your file during normal business hours and on reasonable notice. You may be accompanied by *one* other person of your choosing, who must furnish reasonable identification. The CRA may require you to furnish a written statement granting permission to the CRA to discuss your file in such person's presence.
2. By obtaining a summary of it via telephone call, if you have made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by you or charged directly to you.
3. By requesting in writing, with proper identification, that a copy of it be sent to a specified addressee by certified mail. The CRA complying with such requests for certified mailings shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the investigative CRA.

The CRA may not charge you more than the actual copying costs for providing you with a copy of your file. The CRA will provide trained personnel to explain any information furnished to you. The CRA will provide a written explanation of any coded information contained in files maintained on you. If you choose to visually inspect the file under option 1 above, this written explanation will be provided whenever the file is provided to you.

Please note that the CRA used by Fresno State is:

[name, etc]

⁷ The term "proper identification" as used above shall mean that information generally deemed sufficient to identify a person. Such information includes documents such as a valid driver's license, social security number, military identification card, and credit cards. Only if the consumer is unable to reasonably identify himself/herself with the information described herein, may an investigative CRA require additional information concerning your employment and personal or family history in order to verify your identity.

California State University, Fresno
Applicant/Employee Authorization
FCRA - ICRA⁸

I, _____ [print name], hereby authorize California State University, Fresno to obtain a consumer report or an investigative consumer report about me from [agency name, etc.] in connection with the University's assessment and consideration of my application for employment or any of the other purposes described in the Disclosure Statement provided to me by the University. I acknowledge that I have received the Disclosure Statement and have read it and the attachments thoroughly.

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 of agency] with any and all background information in their possession regarding me which may be obtained pursuant to law, in order that my employment qualification 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: _____

- 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.*

Return signed form to the office of Human Resources (staff and managers), or Faculty Affairs

⁸ FCRA: federal Fair Credit Reporting Act – Applies only when an employment background check is prepared by an outside screening company.

ICRA: California Investigative Consumer Reporting Agencies Act– Applies when a third party conducts the background check.

**California State University, Fresno
Request for Information from Applicant/Employee and
California Information Practices Act Notice**

Print name: _____
Last First Middle

Birth date: _____ (mm/dd/yy) Social security #: _____

Driver's license #: _____ State (if other than California): _____

Business phone #: _____ Home phone #: _____

Email: _____

Current mailing address: _____

Current home address (if different than above): _____

Other names you have used: _____

Have you ever been convicted of a crime? No Yes – complete information below

Crime Date City/County/State

Crime Date City/County/State

Attach additional page if needed.

Information Practices Act Notice (Civil Code Section 1798.17)

This information is being requested by California State University, Fresno (the University). The University is authorized to maintain this information pursuant to Education Code Section 89500, 89535, and CSU systemwide policy per HR 2005-10. 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 the University. The name, business address and telephone number of the person at the University who is responsible for maintaining the requested information and will be able to inform you of the location of this information is:

For staff and management positions:

Ms. Janice A. Parten
Associate Vice President for Human Resources
5150 N. Maple Avenue M/S JA 41
Fresno, Calif. 93740-8026
559-278-2364

For faculty positions:

Dr. Michael Caldwell
Assoc. Vice President for Faculty Affairs
5200 N. Barton M/S ML 55
Fresno, Calif. 93740-8027
559-278-3027

Signature: _____ Date: _____

Return to Human Resources or Faculty Affairs

APM 315-14
December 2013

Appendix C
List of Sensitive Positions