

Interim Policy and Procedures for Fingerprinting and Conducting Background Checks

A. Introduction

~~Over thirty years ago,~~ 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.

~~Twenty years ago~~ Later, when campuses were delegated the authority to continue fingerprinting, ~~Fresno State~~ California State University, Fresno did continue this practice. Thus, for over ~~thirty~~ 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 the sensitivity to identify theft and security has heightened within the last few years in the ensuing years, so has the 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 ~~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.

For Staff, Confidential and Management Employees: Designated university ~~employee~~ Employees (faculty, staff, confidential, and management) appointed for more than ninety (90) days, and successful ~~candidate~~ Candidates for designated sensitive position Sensitive Positions lasting more than ninety (90) days shall be fingerprinted. ~~Candidate~~ Candidates who are to be hired, and ~~employee~~ Employees of the university who are appointed or transferred to sensitive position Sensitive Positions¹ or who acquire new job duties that are within the scope of a sensitive position Sensitive Position are required to undergo a background check.

A background check shall be conducted on successful ~~candidate~~ Candidates for all sensitive position Sensitive Positions appointed for more than ninety (90) days, including volunteer Volunteers and consultant Consultants performing duties considered comparable to those of sensitive position 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~~ Employee may work while the results of the background check are being obtained by the University university.

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

For Prospective Faculty: As part of the hiring process, and as a pre-condition to employment, Candidates for Faculty appointments lasting more than ninety (90) days (including Volunteers) shall be required to provide fingerprints for the purpose of a criminal background check using the Live Scan process. (See Paragraph DG.1. below.)

For Incumbent Faculty: Faculty (including 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 multi-day camp or clinic offered to minor children and hosted by the university, a university auxiliary, or an outside entity;
- (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);

This policy applies to all state positions.

BC. 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~~ 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) ESR 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

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

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 ..."

as a potential ~~the~~ nominee for the vacancy-employee.

b) Employee – an individual who is currently employed by the university ~~and assigned to a sensitive position, or is to be promoted into a sensitive position.~~

c) Faculty – an individual who is employed by the university in CSU Bargaining Unit 3.

e)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)e) Consultant – anyone who is compensated by the ~~University~~ university pursuant to the policy on hiring consultants.

e)f) 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~~ Candidate, ~~employee~~ Employee, ~~volunteer~~ Volunteer or ~~consultant~~ Consultant prior to the initiation of the background check.

f)g) Sensitive Positions – Per HR2005-10, positions requiring a background check may involve, but are not limited to, those which have:

1. responsibility for the care, safety and security of people, including children and minors, or property,
2. direct access to, or control over, cash, checks, credit cards, and/or credit card account information,
3. authority to commit financial resources of the ~~University~~ university through contracts greater than \$5,000,
4. control over campus business processes, either through functional roles or system security access,
5. access to detailed personally identifiable information about students, faculty, staff or alumni, which might enable identity theft,
6. access to controlled substances, or
7. 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 ~~candidate~~ 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.

e)h) Criminal History Statement – completed by the California Department of Justice in Sacramento after information has been digitized in local, state, and federal files that indicate all arrest and conviction records on a ~~candidate~~ Candidate. The Department of Justice may submit the Criminal History Statements to the Chief of Police, the ~~Director of~~ Associate Vice President for Human Resources, or the Associate Vice President for Academic Personnel, 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.

h)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 Academic Personnel Services

a) Initiating the process

Human Resources and Academic Personnel Services will provide the ~~candidate~~Candidate, ~~employee~~Employee, ~~volunteer~~Volunteer or ~~consultant~~Consultant with information and necessary forms to be completed for a background check. All documents associated with the background check must be returned to the appropriate personnel office. If an ~~head hunting~~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 ~~Director of~~Associate Vice President for Human Resources or the ~~Associate Vice President for~~Associate Vice President for Academic Personnel. If the background check is generated through the manual fingerprint process, the Chief of Police will contact the ~~Director of~~Associate Vice President for Human Resources or ~~Associate Vice President for~~Associate Vice President for Academic Personnel if a ~~criminal history statement~~Criminal History Statement is returned on a ~~candidate~~Candidate or ~~employee~~Employee as part of the employment process.

c) Decisions about employment

The review of a criminal history report will be conducted by the ~~Director~~Associate Vice President for Human Resources or the ~~Associate Vice President for~~Associate Vice President for Academic Personnel, in consultation with other administrators, as appropriate. If it is determined that the background reports *may* preclude employment, the results of the review will be forwarded to the appropriate Vice President for a final decision. 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 position~~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~~Candidate or ~~employee~~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~~Candidate or the ~~employee~~Employee.

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

5. Responsibility of ~~employee~~Employee

Upon any conviction of a crime, other than a minor traffic violation³ an ~~employee~~Employee in a ~~sensitive position~~Sensitive Position is required to report the conviction immediately to the ~~Director of~~Associate Vice President for Human Resources or the Associate Vice President for Academic Personnel.

6. Appeal process

An appeal by the ~~candidate~~Candidate or ~~employee~~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.

CD. 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 criminal history search. For prospective Faculty, incumbent Faculty subject to background check under Section B., and for staff and management appointments to sensitive positionSensitive Positions, other than sworn police officers, this electronic process will normally be used. Human Resources or Academic Personnel 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. This form serves as the ~~release form~~Release Form. (see Appendix B)
- b) The individual will make an appointment with the campus Police Department to have

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.

- 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 ~~Director of~~ Associate Vice President for Human Resources or the Associate Vice President for Academic Personnel.
 - e) The ~~Director of~~ Associate Vice President for Human Resources or the Associate Vice President for Academic Personnel 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-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~~ Release Form to complete and return to Human Resources or Academic Personnel Services within ten (10) days of hire. (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 Academic Personnel Services.
- 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 ~~Director of~~ Associate Vice President for Human Resources or the Associate Vice President for Academic Personnel.
- f) The ~~Director of~~ Associate Vice President for Human Resources or the Associate Vice President for Academic Personnel 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.

3. Other types of background checks:

Degree Verification: The University-university is required to verify the college degree for the final candidateCandidate 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 employeeEmployees being appointed to a new position. The university or search firm may contact the granting institution directly, or may ask the candidateCandidate or employeeEmployee to request a certified copy of the transcript documenting the awarding of the degree.

Reference Checks: References checks shall be made for all ~~candidate~~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~~Candidate or ~~employee~~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~~Candidate or ~~employee~~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~~Candidate for the position must provide proof of the specialized license. In certain cases, including but not limited to ~~employee~~Employees whose primary responsibility is driving or ~~employee~~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~~Candidate must provide official proof of the professional license. The documentation provided by the ~~candidate~~Candidate may be independently verified by the university.

Approved by the President as Interim Policy August 25, 2006
Posted as Interim Academic Policy March 25, 2009

Appendix A

Prior California State University System Executive Orders
and Technical Letters

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

California State University, Fresno
**Applicant/Employee
Disclosure Statement**
FCRA - ICRA⁴

In connection with your application for employment or consideration for a different position at the University/university, a consumer report or an investigative consumer report may be obtained as part of a background check. The University/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/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: _____

⁴ 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 identification⁵ 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]

⁵ 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 - ICRA⁶

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~~ 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~~ 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~~ 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~~ university.*

Return signed form to
the office of Human Resources (staff and managers), or
Academic Personnel Services (faculty)

⁶ FCRA: federal Fair Credit Reporting Act 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

Director of Associate Vice President for Human Resources

President for Academic Personnel

5150 N. Maple Avenue M/S JA 41

Fresno, Calif. 93740-8026

559-278-2364

For faculty positions:

Ms. Janette Redd Williams Dr. Ted Wendt

Interim Associate Assoc. Vice

Academic Personnel

5241 N. Maple Avenue M/S/ TA 55

Fresno, Calif. 93740-8027

559-278-3027

Signature: Date:

Return to Human Resources or Academic Personnel Services

Appendix C
List of Sensitive Positions



Date: December 24, 2008

Code: HR 2008-25

To: CSU Presidents

Reference: HR 2005-10

From: Gail E. Brooks
Vice-Chancellor
Human Resources

Subject: Background Checks – Update: CSU Employees Working at Sports Camps and Clinics

Overview

Audience: CSU Presidents, Vice Presidents, HR Officers, AVPs/Deans of Faculty Affairs and campus designees responsible for administering employment programs.

Action Item: Conduct background checks for applicants/employees as required by this policy.

Affected Employee Groups/Units: All

Summary

This update incorporates new background check requirements for individuals who staff campus-hosted sports camps/clinics.

The following is provided as an addendum to the background check guidelines published in HR 2005-10. The remainder of the guidelines stated in HR 2005-10 do not change.

Audit Report 07-40, *Athletics Administration, Systemwide*, discusses the subject of Background Checks for individuals who staff campus-hosted sports camps/clinics. The auditors found that such individuals were not being subjected to background checks at the campuses. The report comments that, "the absence of background checks increases the risk of inappropriate personnel assignments for sports camps and clinics, potentially damaging CSU's reputation and leading to financial liability."

The audit report concludes that there is a need to subject coaches and counselors working at sports camps/clinics to background checks.

To comply with that recommendation, the following requirements will apply, effective January 1, 2009:

1. Sports camps and clinics covered by this policy include all athletically related camps and skills clinics that take place on a CSU campus including, but not limited to, those organized and sponsored by the campus, by an auxiliary organization or by an outside entity.

Distribution:

CSU Chancellor
Vice Presidents (all campus vice presidents)
General Counsel

Associate Vice Presidents/Deans of Faculty Affairs
Human Resources Officers
Athletic Directors

2. Background checks (including criminal records, motor vehicle records and sex offender registries) are required for all individuals at the time they are hired by a CSU campus to perform any work at a CSU sports camp/clinic operated by CSU, a CSU auxiliary or by an outside entity. This requirement also applies to CSU Volunteers before they begin working.
3. Background checks (including criminal records, motor vehicle records and sex offender registries) are required for all existing non-represented employees and CSU Volunteers who perform any work at a CSU hosted sports camp/clinic operated by CSU, a CSU auxiliary or by an outside entity.
4. The guidelines in HR 2005-10, *Background Checks*, apply to the background checks referred to in No. 2 and No. 3 above.

The CSU is examining potential meet and confer issues regarding conducting background checks for existing represented employees who work at CSU hosted sports camps/clinics.

If you have questions regarding this policy, please contact systemwide Human Resources at (562) 951-4411 or your campus counsel. This document is available on the Human Resources Administration Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.


GEB/bg

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, CA 90802-4210
(562) 951-4411

Date: March 1, 2005

Code: HR 2005-10

To: CSU Presidents

From: Jackie R. McClain 
Vice President
Human Resources

Subject: Background Checks

INTRODUCTION

California State University (CSU) presidents have delegated authority to establish campus requirements for background checks for applicants and university employees within the guidelines herein, as determined appropriate, to help protect the campus community and its assets. The need to investigate an applicant or employee must be balanced with the need to protect the privacy of the applicant or employee. Background checks, which may include checks of employment records, social security records, workers' compensation claims, criminal records, civil records, credit reports, motor vehicle records, and sex offender registries, may be initiated as a part of the selection process. As well, fingerprinting may be used to accomplish background checks.

If a campus creates a background check policy for the first time or revises its current background check policy, the campus will need to contact its Chancellor's Office labor relations representative before the policy is issued so it can be reviewed for potential notice and meet and confer issues. If a campus has an existing background check policy in place, no action is required.

The campus president determines the appropriate entity to conduct background checks. Background checks may be conducted by an outside vendor or by a campus department. **If an outside vendor is used, complicated notice and reporting requirements will be required.** These are described below only in general terms. If the campus conducts its own background checks, it must still comply with the Information Practices Act, Civil Code § 1798, *et seq.* It may be appropriate to consult with systemwide Human Resources or the campus counsel, as needed. As determined appropriate, background checks may be conducted for applicants and employees hired, promoted, reclassified, retained or reassigned to sensitive positions. Background check requirements may apply to volunteers and consultants. This policy does not apply in instances where a campus is conducting an investigation of a current employee for alleged wrongful conduct.

Distribution:

Chancellor
Vice Presidents, Academic Affairs
Vice Presidents, Administration
Associate Vice Presidents/Deans, Faculty Affairs
General Counsel

Police Chiefs
Human Resources Directors
Risk Managers
Director, SOSS

CAMPUS RESPONSIBILITIES

It is the campus responsibility to:

- develop and maintain general written guidelines regarding background checks that comply with governing laws, including provisions to obtain the applicant's or employee's authorization when required.
- develop a process for the employee to challenge the accuracy of a background check report and to ensure that information regarding the process is provided to the employee 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.
- initiate background checks either itself or by using an outside vendor prior to the hire and transfer, reclassification, promotion or reassignment of individuals into sensitive positions, if determined appropriate.
- notify the individual under consideration for a sensitive position that offer of any personnel action is conditional on successful completion of a background check and that falsification of information provided may be cause for corrective action or rejection.
- maintain confidentiality of background check information.

POSITIONS SUBJECT TO BACKGROUND CHECKING

The campus president, or designee, shall determine whether a position is a sensitive position that requires a background check. Such positions may involve, but are not limited to, those which have:

- responsibility for the care, safety and security of people, including children and minors, or property.
- direct access to, or control over, cash, checks, credit cards, and/or credit card account information.
- authority to commit financial resources of the university through contracts greater than \$5,000.
- control over campus business processes, either through functional roles or system security access.
- access to detailed personally identifiable information about students, faculty, staff or alumni, which might enable identity theft.
- access to controlled substances.
- possession of building master or sub-master keys for building access.

USE OF BACKGROUND CHECK INFORMATION

The entity that conducts the background check will provide the results of the check to the campus human resources or faculty affairs department, as appropriate, which will determine whether the individual is suited for employment in the position for which he/she applied. If the background check reveals a conviction relevant to the sensitive position, the individual may be disqualified from holding the sensitive position. In making such a decision, the campus would consider the nature of the crime, the job for which the applicant is being considered, when the crime and the conviction occurred and

the applicant's conduct, performance and/or rehabilitation efforts since. Certain types of convictions should automatically preclude hiring or promoting individuals into sensitive positions. For example, individuals with convictions for theft, embezzlement, identity theft or fraud should not be hired into positions with fiduciary responsibilities. Individuals with convictions for child molestation and/or other sex offenses should be precluded from employment that involves direct unsupervised contact with children, students, outreach programs or access to residence facilities. Individuals with workplace or domestic violence convictions or other convictions for behaviors that would be inappropriate for specific jobs may be denied certain employment opportunities. This list is not inclusive, but illustrative. Other information revealed in background checks, apart from criminal convictions, also may affect campus employment decisions.

GOVERNING LAWS

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), Civil Code § 1786, *et seq.*; the Consumer Credit Reporting Agencies Act (CCRAA), Civil Code § 1785.1, *et seq.*; the Information Practices Act (IPA), Civil Code § 1798, *et seq.*; and Labor Code § 432.7. Although FCRA and ICRA overlap, both statutes apply to CSU. Their key provisions are similar but not identical.

FCRA

FCRA covers "consumer reports" issued for multiple purposes, including credit checks, but FCRA also governs employment background checks for the purposes of "hiring, promotion, retention or reassignment." FCRA applies only when an employment background check is prepared by an outside screening company. When an outside company prepares the report, FCRA requires the employer 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.
- Give individuals a second notice after an adverse action, telling them how to dispute inaccurate or incomplete information.

The individual is entitled to obtain a copy of the report from and review background check files compiled and maintained by the outside company regardless of the employment outcome.

If the campus does not hire a third party to conduct the background investigation, but compiles the report itself, the FCRA provisions do not apply.

While FCRA disclosure and approval requirements for background checks by outside vendors do not apply to investigations of suspected misconduct relating to employment, if such an investigation is conducted by an outside vendor and adverse action is taken based on that investigation, FCRA requires that the campus must disclose to the employee 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.

The FCRA text is available at: <http://www.ftc.gov/os/statutes/050131fcra.pdf>. Further information about FCRA is available at <http://www.ftc.gov/os/statutes/fcrajump.htm>.

ICRA

The CSU also is subject to the provisions of the California law, ICRA, which include notice requirements and the need for prior approval by the subject of the background check when a third party conducts background investigations. These notice requirements are somewhat different than under FCRA and include:

- 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.

Both FCRA and ICRA limit the information that may be included in reports from outside vendors, usually excluding information that antedates the report by more than seven years.

Unlike FCRA, ICRA also establishes notice requirements when the employer conducts the background check itself. However, these statutory requirements under ICRA do not apply to CSU which must, instead, comply with applicable requirements under the Information Practices Act.

IPA

The California Information Practices Act at Civil Code § 1798.17 requires the university to provide notice to individuals who are asked by the university to supply it with information about themselves for the purpose of conducting background checks. The university need not obtain consent from the individuals to obtain that information from them. The notice must include the authority which authorizes the maintenance of the

information; whether submission of such information is mandatory or voluntary; the consequences of not providing the information; the principal purpose for which the information is to be used; certain foreseeable disclosures of the information; and the individual's right of access to such records maintained by CSU. The university itself may also obtain information about individuals directly from third parties, without using agencies subject to FCRA or ICRA, and need not give the individuals notice of its actions or obtain the individuals' consent. However, the university may need to provide all or some of the information it obtains and the sources of that information to the subject individual upon the latter's request.

CCRAA

The campus may consider credit history reports for employees who can affect the institution financially. This may include employees in accounting functions, but also may include employees who may, for example, have a procurement card. Credit reports and companies that compile credit reports are governed in California by the CCRAA. The CCRAA allows the employer to obtain a copy of an individual's credit report for employment purposes. Job applicants and employees have certain rights when a credit report is requested as part of an employment background check.

LABOR CODE § 432.7

If an individual has been detained and/or arrested without conviction, the campus cannot use that information in the personnel decision-making process or as valid grounds for an employment decision. Only criminal convictions that have not been pardoned are to be considered. If an employee has a criminal case pending, his or her suitability for continued employment could be reviewed upon disposition of the case.

SAMPLE FORMS

Enclosed for reference are the following sample forms:

- Applicant/Employee FCRA and ICRA Disclosure Statement (Attachment A)
- Applicant/Employee Authorization (Attachment B)
- Request for Information from Applicant/Employee and California IPA Notice (Attachment C)

FINGERPRINTING

Campus presidents have delegated authority to establish fingerprinting requirements of CSU employees as communicated via FSA 82-31 and Supplement 1 and FSR 85-72 located under Fingerprinting policies at: <http://www.calstate.edu/HRA/dm/policies.shtml>. Campuses must comply with the IPA if fingerprinting is to be undertaken.

POLICE PERSONNEL

Selection of CSU police personnel, including sworn police personnel and police officer cadets, and background check requirements are addressed in CSU's Selection of CSU Police Personnel and Police Officer Testing policy located under Public Safety policies at: <http://www.calstate.edu/HRA/dm/policies.shtml>. The Police Officer Standards and Training (P.O.S.T.) sets background check requirements for Police Dispatchers.

DEPARTMENT OF MOTOR VEHICLE (DMV) CHECKS

The campus shall perform verification of a valid motor vehicle license, generally a California driver's license, for each employee who drives as a part of his/her university duties. The license must be appropriate to the vehicle operated (e.g., a bus driver has a special 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 Vehicle check may be conducted, as determined appropriate by the campus.

If you have any questions regarding this policy, please contact systemwide Human Resources at (562) 951-4411 or your campus counsel. This document is available on the Human Resources Administration's Web site at:
<http://www.calstate.edu/HRAadm/memos.shtml>.

JRMCC/cr

Attachments

Sample Form

California State University (campus)
Applicant/Employee Disclosure Statement
FCRA – ICRA

In connection with your application for employment or consideration of you for a different position at the 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 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 telephone 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, 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); 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: _____

**THE FAIR CREDIT REPORTING ACT (FCRA)
A SUMMARY OF YOUR RIGHTS**

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you - - such as if you pay your bills on time or filed bankruptcy - - to creditors, employers, landlords, and other businesses. CRAs also gather information supplied by public record sources - - such as information contained in criminal records and driving records - - for the use of employers and others. You can find the complete text of the FCRA, 15 U.S.C. §§ 1681- 1681 u, at the Federal Trade Commission's web site (<http://www.ftc.gov>). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

You must be told if information in your file has been used against you. Anyone who uses information from a CRA to take action against you - - such as denying an application for credit, insurance, or employment - - must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

You can find out what is in your file. At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of the information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. Otherwise, a CRA may charge you up to eight dollars.

You can dispute inaccurate information with the CRA. If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs - - to which it has provided the data - - of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

Inaccurate information must be corrected or deleted. A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

Outdated information may not be reported. In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.

Access to your file is limited. A CRA may provide information about you only to people with a need recognized by the FCRA - - usually to consider an application with a creditor, insurer, employer, landlord, or other business.

Your consent is required for reports that are provided to employers, or reports that contain medical information. A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the list indefinitely.

You may seek damages from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA.

**HR 2005-10
ATTACHMENT A**

FOR QUESTIONS CONCERNS REGARDING:

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 Board Division of Consumer & Community Affairs Washington, DC 20551 (202) 452-3693
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 Division of Compliance & Consumer Affairs 550 17 th Street, N.W. Washington, DC 20429 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

**California Investigative Consumer Reporting Agencies Act (ICRA)
A Summary of Your Rights Under California Law**

Under California law, you are entitled upon presentation of proper identification* 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.

* 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 account 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.

Sample Form

California State University (campus)
Applicant/Employee Authorization
FCRA – ICRA

I, [individual's name], hereby authorize [CSU campus name] to obtain a consumer report or an investigative consumer report about me from [name and address 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 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 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 and 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: _____

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 (name of 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 (name of CSU campus). The name, business address and telephone number of the person at (name of 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.).

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802-4275
(213) 590- 5688

Code: FSR 85-72

Date: October 31, 1985

To: Presidents

Subject:
Appointments

From: Caesar J. Naples *C. Naples*
Vice Chancellor
Faculty and Staff Relations

Subject: Fingerprinting Practices

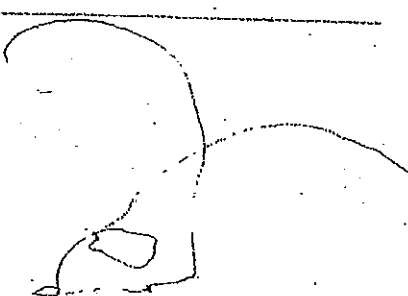
The mandatory requirement to fingerprint all new CSU employees was revised in August 1982. From that point, the practice of fingerprinting new employees was to be done at the discretion of the President. The requirement for fingerprinting was initially established to enable the campus to validate information provided by prospective employees and to act upon Education Code, Section 89535 which states that any employee may be dismissed, demoted, or suspended for conviction of a felony or conviction of any misdemeanor involving moral turpitude, or for fraud in securing appointment.

Recently, FSR surveyed the campuses' pre-employment screening procedures for positions which require custodial responsibility for students, the handling of cash and work assignments which would ordinarily require bonding. All campuses responded to the survey. From the data we are able to report the following: The application materials of the majority of campuses contain inquiries regarding prior criminal convictions. The majority of campuses who responded are fingerprinting new employees appointed to selected positions. However, with the exception of sworn Public Safety Officer applicants, the available data showed that there does not seem to be any pattern to the types of positions for which applicants are routinely fingerprinted.

At this time you should review your campus' fingerprinting practices. Consideration on your part should be given to the value of fingerprinting prospective employees who work in the following types of functions:

(Over)

Distribution: Vice President, Academic Affairs
Associate Vice President/Dean, Faculty Affairs
Vice President, Administration
Business Manager
Personnel Officer
Payroll Supervisor
Affirmative Action Officer
Auxiliary Organization
Chancellor's Office



Page 2
FSR 85-72
October 31, 1985

- o Public Safety Officers (P.O.S.T. procedures require fingerprinting)
- o Personnel who work in children's centers
- o Personnel who work in residence halls
- o Personnel who work in health centers
- o Personnel who are required to handle cash
- o Personnel who work with student records and student financial data
- o Personnel who are issued or who have access to master keys and pass keys
- o Personnel who work in budget, accounting and payroll offices

If you determine fingerprinting should be used as an employment screening tool for certain position classifications or functions, processing arrangements should be made directly with the Department of Justice, Central Services, (916) 739-5468.

If you have any questions, please contact Ms. Rose Ortega of my staff at (213) 590-5688 or ATSS 635-5688.

CJN:KAF:rmo

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802
(213) 590-5596

Code: FSA 82-31
Supersedes FSA
74-02 and 74-02A

Date: August 11, 1982

To: Presidents

From: *Robert E. Lyndall*
Robert E. Lyndall
Acting Vice Chancellor
Faculty and Staff Affairs

Subject: Revision of Policy on Fingerprinting of Employees

Current policy on the fingerprinting of employees, as set forth in FSA 74-02 and 74-02A, requires that all new employees be fingerprinted and that the completed fingerprint cards be processed through the State Department of Justice. Effective immediately, the fingerprinting of new employees shall be done at the discretion of the President; it is no longer mandatory that all new employees be fingerprinted.

The requirement for fingerprinting was established primarily to enable the campus to validate information provided by prospective employees. The Education Code, Section 89535 (g) and (h), states that any permanent or probationary employee may be dismissed, demoted, or suspended for conviction of a felony or conviction of any misdemeanor involving moral turpitude, or for fraud in securing appointment. These Education Code provisions should be kept in mind in making a decision at the campus level whether or not to fingerprint all or any classes of employees at the time of employment.

Additional consideration on your part might be given to the value of fingerprinting prospective employees who will handle cash or will be in an assignment or role which would ordinarily require bonding.

If a judgment is made at your campus that fingerprinting of new employees will continue in certain specified classes or functions, then the process outlined below should be followed. Offers of employment for those classes specified should include a statement that fingerprinting prior to appointment may be required. (Over)

Distribution: Vice Presidents, Academic Affairs
Associate Vice Presidents/Deans, Faculty Affairs
Vice Presidents, Administration
Business Managers
Personnel Officers
Payroll Supervisors
Affirmative Action Officers
Auxiliary Organizations
Chancellor's Office Staff

The campus should provide the California State Department of Justice's Bureau of Criminal Identification with the name and address of the campus department that will be responsible for submission of fingerprint cards and the receipt of subsequent arrest reports. This information should be mailed to:

Department of Justice
Bureau of Criminal Identification
Quality Control Section
P.O. Box 13417
Sacramento, CA 95813

Phone ATSS 492-5261

The Department of Justice determines the charge for processing fingerprint cards and providing rap sheets to the campus. The campus Business Officer should make arrangements with the Bureau of Criminal Identification of the Department of Justice for receipt of subsequent arrest reports. This is done by contacting:

Department of Justice
Bureau of Criminal Identification
Central Services
P.O. Box 13367
Sacramento, CA 95813

Phone ATSS 485-3313

There is a nominal fee for each arrest notification issued. Public Safety Officers, Public Safety Investigators or Public Safety Dispatchers and related supervisory classes are automatically covered by the subsequent arrest notification service, whether or not a written agreement exists.

An internal control system should be maintained for the fingerprint cards submitted to the Bureau of Criminal Investigation. It is the responsibility of the campus to evaluate the information provided on the rap sheet in relation to the class in which the individual is working. The campus also is responsible for the confidentiality and security of rap sheets following their receipt.

If a campus has a subsequent arrest record agreement with the Department of Justice on an employee who transfers to another CSU campus or the Chancellor's Office, then the leaving campus should modify the subsequent arrest record agreement accordingly.

This policy supersedes FSAs 74-02 and 74-02A on fingerprinting of employees. University and College Administrative Manual (UCAM) holders should annotate their manuals, Sections 5292 through 5292.03, with the number of this policy letter and an indication that this policy letter supersedes those sections. UCAM will be updated to reflect the change at a later date. Holders of copies of "Show It To Me In Writing", the FSA subject guide to current personnel policies and regulations, should also amend that document accordingly (See Fingerprinting, p. 25).

If there are any questions regarding this policy, please contact Linda W. Allman of my staff at Public Number (213) 590-5584 or ATSS 635-5584.


RET:LWA:kw

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802
(213) 590-5596

Code: FSA 82-31
Supplement I

Date: October 7, 1982.

To: Presidents

From: 
Robert E. Tyndall
Acting Vice Chancellor
Faculty and Staff Affairs

Subject: Clarification of Revised Policy on Fingerprinting of Employees

FSA letter 82-31 dated August 11, 1982, did not make it clear that State law and the regulations of the State Department of Justice require fingerprinting of all sworn public safety personnel and public safety dispatchers. Therefore, the delegation to you covers all classes of employees except the public safety personnel noted above. Persons employed in such positions must be fingerprinted at the time of employment.

RET:LWA:kw

Distribution: Vice Presidents, Academic Affairs
Associate Vice Presidents/Deans, Faculty Affairs
Vice Presidents, Administration
Business Managers
Personnel Officers
Payroll Supervisors
Affirmative Action Officers
Auxiliary Organizations
Chancellor's Office Staff

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

EXPIRED

California State University, Fresno
Applicant/Employee
Disclosure Statement
FCRA - ICRA⁴

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: _____

⁴FCRA: 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 identification⁵ 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]

⁵ 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 - ICRA⁶**

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
Academic Personnel Services (faculty)**

⁶ 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
Director of Human Resources
5150 N. Maple Avenue M/S JA 41
Fresno, Calif. 93740-8026
559-278-2364

For faculty positions:

Ms. Janette Redd Williams
Associate Vice President for Academic Personnel
5241 N. Maple Avenue M/S/ TA 55
Fresno, Calif. 93740-8027
559-278-3027

Signature: Date:

Return to Human Resources or Academic Personnel Services

THE FAIR CREDIT REPORTING ACT (FCRA) A SUMMARY OF YOUR RIGHTS

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or filed bankruptcy -- to creditors, employers, landlords, and other businesses. CRAs also gather information supplied by public record sources -- such as information contained in criminal records and driving records -- for the use of employers and others. You can find the complete text of the FCRA, 15 U.S.C. §§ 1681- 1681 u, at the Federal Trade Commission's web site, (<http://www.ftc.gov>). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

You must be told if information in your file has been used against you. Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

You can find out what is in your file. At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of the information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. Otherwise, a CRA may charge you up to eight dollars.

You can dispute inaccurate information with the CRA. If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

Inaccurate information must be corrected or deleted. A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

Outdated information may not be reported. In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.

Access to your file is limited. A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

Your consent is required for reports that are provided to employers, or reports that contain medical information. A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the list indefinitely.

You may seek damages from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA.

REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

ORI: _____ Type of Application: _____
Code assigned by DOJ

Job Title or Type of License, Certification or Permit: _____

Agency Address Set Contributing Agency:

Agency authorized to receive criminal history information

Mail Code (five digit code assigned by DOJ)

Street No. Street or P.O. Box

Contact Name (Mandatory for all school submissions)

City State Zip Code

Contact Telephone No.

Name of Applicant: _____
(please print) Last First MI

Alias: _____
Last First Driver's License No.

Date of Birth: _____ Sex: Male Female Misc. No. Bit. Agency Billing Number

Height: _____ Weight: _____ Misc. No.

Eye Color: _____ Hair Color: _____ Home Address: _____
Street or P.O. Box

Place of Birth: _____
City, State and Zip Code

SOC: _____

Your Number: _____ Level of Service DOJ FBI
OCA No. (Agency Identifying No.)

If resubmission, list Original ATI No. _____

Employer: (Additional response for agencies specified by statute)

Employer Name _____

Street No. Street or P.O. Box Mail Code (five digit code assigned by DOJ)

City State Zip Code Agency Telephone No. (optional)

Live Scan Transaction Completed By: _____ Date: _____
Name of Operator

Transmitting Agency ATI No. Amount Collected/Billed

Appendix C
List of Sensitive Positions

IN PROGRESS

APPENDIX C
 Background Check - Sensitive Positions

Background Check -
 Sensitive Positions

Positions covered by the Background Check Policy as of 2/10/09	Degree	Credit	DMV	Licenses	Criminal	ALL
1						
Responsible for care, safety, security of people and property MPPs				X	X	
Vice Presidents and Deans	X	X	X	X	X	
Associate Deans, Directors	X		X	X	X	
All others	X		X	X	X	
Volunteers who are around children				X	X	
Coaches working at campus-hosted sport camps and clinics			X	X	X	
2						
Direct access to/control over: cash, checks, credit cards, credit account info.						
Budget office, all staff	X				X	
Gasoline credit card holders			X			
Library staff, positions responsible for handling cash					X	
Accounting	X				X	
Cashiering, including satellite operations	X				X	
Testing office staff	X				X	
3						
Authority to commit more than \$5000 thru contracts						
Procurement staff, all					X	
Controller	X			X	X	
Budget officer	X			X	X	
4						
Control over business processes (functional role or security access)						
ITS technical staff, all positions	X				X	
CIS technical staff, all positions	X				X	
school/college technical staff, all positions	X				X	
5						
Access to detailed personal info which could lead to identity theft						
Credential analysts					X	
Evaluators (including trainees)					X	
Extended ed specialists	X				X	
Placement interviewers					X	
SSPs	X				X	
HR and Academic Personnel, all staff	X		X		X	
Payroll, all staff	X		X		X	
Public safety, all staff	X		X		X	
Workers' comp coordinator				X	X	
Student Financial Services, all staff					X	

