Administrative Procedure

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Subject: CRIMINAL RECORDS CHECK - UNITS 3, 11, 13, VOLUNTEERS and SPECIAL CONSULTANTS

1.0. PURPOSE:

To establish policy, protocols and guidelines for the University's criminal records check process as it applies to appointments to positions in Unit 3, Unit 11, and Unit 13, as well as appointments as volunteers and special consultants. The criminal records check process is designed to maintain public trust and protect the students and employees of the University by ensuring that those serving in positions of high risk are appropriately screened so as to prevent the appointment of those unsuited for employment in such positions. These procedures apply only to appointments as defined above. All other appointments are governed by Administrative Procedure 312.

2.0. ORGANIZATIONS AFFECTED:

All organizational units of the University, excluding Auxiliary organizations.

3.0. REFERENCES:

3.1. FSA 82-31, Revision of Policy on Fingerprinting of Employees.

3.2. FSR 85-72, Fingerprinting Practices.

3.3. HR 2005-10, Background Checks and HR 2008-25, Background Checks - Update.

3.4. Education Code, Section 89535 (g) and (h).

3.5. Education Code, Sections 44340 and 44341.

3.6. Health and Safety Code, Sections 1522, 1569.17 and 1596.871.

3.7. Information Practices Act, Civil Code, Section 1798.17.

3.8. California State University, Los Angeles (Cal State L.A.) Administrative Procedure 316, Conditions of Employment.

4.0. POLICY:

While we recognize that positions, as defined in Section 1.0., involve certain inherent responsibilities and consequent risks (e.g., access to student records and interaction with minors in instructional settings), it is not University policy to require every candidate for these positions to undergo a background check. However, candidates for appointments to positions of high risk must be fingerprinted prior to serving in such positions as a means for conducting a criminal background check.

Approved: _____ **Date:** _____

An incumbent will not be required to undergo a criminal records check, even if the current position is identified as high risk in this document. However, a current employee may be required to undergo a criminal records check if he or she applies for a new position and the new position is a high risk position, or if he or she is under consideration for transfer (whether voluntary or involuntary) to a new position and the new position is a high risk position, as defined herein.

A candidate for any position who admits to a felony conviction and is selected as a final candidate will also be required to complete a criminal records check before proceeding further in the search process.

Information received through the criminal records check process is considered confidential and will not necessarily disqualify the individual from further consideration or eventual appointment. The results of any check will be weighed against the nature and gravity of the incident(s) reported, the time elapsed since the incident, remedial actions taken by the individual, the nature of the position for which a candidate is under consideration, and the relationship of the incident(s) to the person's ability to safely and appropriately perform the duties of the job.

Only criminal convictions will be considered in determining an individual's suitability for employment. Detention and/or arrest without conviction do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. However, if a candidate has a criminal case pending at the time of appointment, his or her suitability for continued employment may be reviewed upon disposition of the case.

5.0. DEFINITIONS:

5.1. Candidate - An individual or employee who files an employment application for a posted vacancy that requires a background check, has gone through the recruitment and selection process, has been selected as a successful applicant, and has been issued a conditional letter of employment for a CSULA position as defined in Section 1.0. Also, a current employee who has requested or has otherwise been identified as a candidate for a transfer to a position identified in this document as a high risk position.

5.2. Minor - Any person under the age of 18 years.

5.3. Request for Live Scan Service Form - The required Department of Justice/FBI form used to perform the Live Scan Service of the candidate (Appendix 8.1.).

5.4. Live Scan - A method of processing fingerprints electronically.

5.5. Positions of High Risk - Positions and/or classes that include at least one of the following responsibilities:

a. Direct access to, or control over, cash, checks, credit cards, and/or credit card account information;
b. Authority to commit financial resources of the University through contracts greater than $5,000;
c. Residing in or otherwise appointed to a position in a student dormitory or residence hall;

d. Appointment to a position in the Student Health Center, including Unit 3 positions in the Counseling and Psychological Services Center;
e. Possession of building master keys; unrestricted access to residence halls or student housing; access to areas with expensive equipment and/or sensitive equipment other than that used in the course of one's instructional or research activities;
f. Access to dangerous chemicals, radioactive material or controlled substances beyond the norm for the respective discipline and other than that used in the course of one's instructional or research activities;
g. Responsibility for providing child care, working in a child-care facility, or having access to a child-care facility in the course of one's assigned duties;
h. Performance of assigned duties in the presence of a minor in a confined room, vehicle, or work space without the presence of another adult; or being in the presence of a minor outside the view of another adult within 50 feet;
i. Any position involving work with minors who are not enrolled students of the University;
j. Any position wherein the primary assignment requires driving as an essential function of the job; and
k. Other assignments or combination of assignments that would put the University community at risk as determined by the Human Resources Management office in consultation with the appropriate hiring authority.

Positions of high risk shall include all positions requiring bonding, and all positions for which criminal background checks are legally required. In such cases in which an appointment requires bonding, credentialing, or the like, which in turn require background checks, the candidate shall complete the fingerprinting procedures prior to appointment to the position.

5.6. Criminal History Statement - Completed by the Department of Justice/FBI in Sacramento after information has been digitized in local, state and federal files that indicate all arrest records on a candidate. Criminal History Statements are routed to CSULA Public Safety from Sacramento.

6.0. RESPONSIBILITIES:

6.1. The President or his/her designee will establish the policy and procedures for criminal background checks and fingerprinting.

6.2. Public Safety will contact the Assistant Vice President of Human Resources Management if a Criminal History Statement is returned on a candidate as part of the employment process.

6.3. Human Resources Management, in consultation with the appropriate administrator, will:

6.3.1. Identify positions of high risk.

6.3.2. Identify on job announcements when a position of high risk will require fingerprinting as a means of conducting a criminal background check.

6.3.3. Issue a notice to the candidate that a report may be obtained and obtain written consent from the candidate.

6.3.4. Establish the criminal background standards for hiring (e.g., felony and some misdemeanor convictions may preclude employment in certain positions of high risk). Examples include, but are not limited to, convictions related to drugs, theft, embezzlement, fraud, and child molestation and other sex offenses, where an employee may work around pharmaceuticals, have master keys, work with minors, have fiduciary responsibility, or handle cash. Each record will be weighed to determine when the conviction occurred, the type of conviction, whether the applicant disclosed the conviction on his/her application, and whether it is job-related.

6.3.5. Discuss the receipt of subsequent arrest reports or any finding with Public Safety and contact the appropriate Vice President and/or the appointing authority, as appropriate.

6.3.6. Discuss findings with the Director of Public Safety and University Counsel for appropriate action and to determine if the record is job-related.

6.3.7. Provide information to the candidate on how to obtain a copy of the report to dispute inaccurate or incomplete information.

6.3.8. Maintain the results in a locked file cabinet and discard after one (1) year or when any appeals or other disputes are resolved, whichever is later.

7.0. PROCEDURES:

7.1. Human Resources Management will advise the candidate that a background check with Live Scan will be processed, provide the candidate with a Request for Live Scan Service form (Appendix 8.1.), which has agency information already completed, and obtain written authorization to conduct the background check via the California State University, Los Angeles Applicant/Employee Authorization form (Appendix 8.2.). Failure by the candidate to provide authorization to conduct the background check will result in a rescission of the conditional offer of employment.

7.2. The candidate will complete the appropriate section of the Request for Live Scan Service form.

7.3. Human Resources Management will review the information and direct the candidate to the Live Scan site (University Police) to be fingerprinted.

7.4. The candidate will follow instructions and procedures at the Live Scan site.

7.5. After successful electronic capture of fingerprint images and accompanying data, the information will be transmitted to the Department of Justice/FBI for processing.

7.6. Public Safety will receive from the Department of Justice/FBI, via electronic mail, any Criminal History Statements. Public Safety will promptly provide the information from any Criminal History Statement to the Assistant Vice President of Human Resources Management in a sealed, confidential envelope.

7.7. Human Resources Management will discuss information received from the Criminal History Statements with University Counsel, the Director of Public Safety, and the appropriate administrator to determine the appropriate action. The review will be in accordance with 6.3.4. above.

7.8. The University will cover the cost of the fingerprint fee.

8.0. APPENDICES:

8.1. Request for Live Scan Service form.

8.2. California State University, Los Angeles Campus Request for Information from Applicant/Employee and Accompanying California Information Practices Act Notice.