



University Executive Directive #11-09	Issue Date: April 16, 2012
Subject: Criminal Records Check Guidelines	Revision Date:
Approved: <i>Levy M. Moisheitz</i> President	
Division:	
Contact: Risk Management – 510-885-3833	

Authority:

In accordance with HR 2005-10, campus presidents have been delegated authority to establish campus requirements for background checks for applicants and university employees in order to help protect the campus community and its assets. These guidelines do not apply to the screening of sworn and non-sworn Police Officers and Dispatchers of the University Police Department. Guidelines and standards for these individuals are contained in Government Code 1031 *et.seq* and enforced by the Commission on Peace Officer Standards and Training.

Overview:

The term Criminal Records Check will be used throughout this document and refers to the process of fingerprinting using LiveScan, which captures images of an individual’s fingerprints and compares them to the fingerprints of people with convictions on file with either the California Department of Justice (DOJ) or the FBI.

California State University, East Bay has identified security sensitive positions and will:

- A. Act in a manner consistent with the requirements of the law and prudent practices and conduct criminal records checks on applicants or employees who are under final consideration for a position that has been designated as security sensitive.
- B. Respect policy, state and federal laws by recognizing an individual’s right to privacy and prohibit campus employees and others from seeking, using, and disclosing personal information except within the scope of their assigned duties.
- C. Conduct criminal record checks on all successful candidates, internal and external, including volunteers or consultants, for positions that are listed as being subject to a criminal record check.
- D. Not automatically exclude from consideration for employment all individuals with criminal convictions.
- E. In no way use the information obtained to discriminate on the basis of race, color, national origin, religion, sex, disability or age.

Requirements:

Criminal Record Checks will be obtained for:

- A. An applicant, or employee, who is under final consideration, following routine screening and selection processes, for a position that is designated as a security sensitive position.
- B. An employee who is under consideration for a transfer, promotion, reclassification, retraining, or reassigned from a non-security position to a position designated as a security sensitive position.

- C. An employee who is under consideration for a transfer, promotion, reclassification, retraining, or reassigned from one security sensitive position to another security sensitive position, and on whom the institution did not previously obtain either criminal offender record information or criminal conviction record information.
- D. Any volunteer or consultant in a role deemed security sensitive.

These requirements do not apply in instances where a campus is conducting an investigation of a current employee for alleged misconduct.

A criminal offender’s record information may only be used for the purpose of determining the applicant’s or employee’s suitability for employment, transfer, promotion, reclassification, retraining, or reassignment and in managing business risk.

CSUEB Security Sensitive Positions

The following table lists positions designated as security sensitive. This list is not exhaustive, and CSUEB reserves the right to update positions at any time without prior notice.

By Classification/Function	By Department
Vice President, Administration and Finance ¹	Communicative Sciences & Disorders ^{1,2}
Deputy Vice President, Administration & Finance ¹	Housing and Residential Life ^{1,2}
MPP – Facilities	Information Technology ¹
Buyers ¹	Intercollegiate Athletics ^{1,2}
Cashiers ¹	Library Access Services
Custodians	Payroll, Human Resources and Risk Management
Laborers	Parking
Locksmith ¹	Procurement
Medical ¹	Student Health Services
Outreach Workers ^{1,2}	University Police Department ¹
Police/Dispatchers ³	
Trades ¹	

¹ Require FBI Criminal Check

² Require Child Check

³ Subject to Government Code 1031 *et. Seq*

Criminal records checks are not required on incumbent employees holding one of these sensitive positions prior to the update of these guidelines.

Other positions meeting the criteria, such as individuals who work with minors in a non-traditional classroom environment, are also subject to criminal records checks. Please contact Risk Management for protocol.

Procedures for LiveScan:

Human Resources/Academic Affairs will ensure that candidates are informed of the criminal records screening requirement. All advertisements, notices, and postings for positions listed as CSUEB Security Sensitive Positions, will state: *“Successful candidates for this position will be offered the position contingent on a satisfactory criminal records check.”*

Once the final candidate has been selected:

- A. Hiring Department will notify Human Resources Manager/Academic Affairs Staff that a final candidate has been selected for a security sensitive position.
- B. Once the completed recruitment packet is returned to Human Resources Manager or Academic Affairs Staff, the hiring department will direct the finalist to Risk Management (SA4709) to complete LiveScan paperwork.
- C. Finalist completes the Request for Information and Information Practices Act Notice form (Attachment A) and LiveScan form (Attachment B) in Risk Management. Individuals refusing to sign the authorization will be eliminated from further consideration.
- D. Completed LiveScan forms and finalist will be directed to the University Police Department where he or she will be fingerprinted (LiveScan).

Risk Management, Custodian of Records, Responsibilities:

- A. Review and update the list of security sensitive positions.
- B. Serve as the Office of Records for files concerning criminal record checks.
- C. Maintain confidentiality of criminal records check results.
- D. Retrieve daily LiveScan results from the Department of Justice (DOJ) or FBI.

Criminal Check Results:

No Record - Risk Management will send e-mail to requesting department notifying them of the “no record” results.

Felony Convictions – AVP, Risk Management will notify AVP Human Resources of results. Upon notification, the AVP Human Resources will notify the appropriate hiring department.

If the results of the criminal records check preclude an individual from employment, transfer, promotion, reclassification, retraining, or reassignment of job duties on the campus, Human Resources/Academic Affairs will notify the candidate.

If the results of the criminal records check preclude a current employee from transfer, reclassification, or reassignment from a non-security position to a position designated as a security sensitive position, the results of the criminal records check shall have no bearing on the individual’s continued employment in the non-security sensitive position unless:

- A. The employee failed to admit a felony conviction on his/her initial application for employment with the University; or
- B. The felony conviction was of such a nature as to impact the safety or security of students, faculty, staff, or University property.

If CSUEB believes the results of the criminal records check will impact the employee’s ability to continue in his/her current position, the University will consider the individual’s suitability for employment or a change in job duties after considering the specific duties of the position, the number and circumstances of offenses, when the employee’s last felony conviction occurred, and whether the offenses were disclosed on the application. Any action taken by CSUEB pursuant to this and/or the preceding paragraph that results in a loss of salary to the employee shall be considered a disciplinary action. Any such disciplinary action may only be administered in a manner consistent with the terms of the applicable collective bargaining agreement in accordance with the applicable provisions of the California Education Code.

Copies of the results do not have to be provided to the subject under the California Investigative Consumer Reporting Agencies Act (California Assembly Bill 655), but he/she is entitled to receive a summary of the records check from the Department of Justice. Upon request, UPD will provide information on how to obtain the information directly from the Department of Justice.

Billing:

- A. Risk Management will process an annual Blanket Express Purchase Order at the beginning of each fiscal year with estimated expenses by department.
- B. Risk Management will review DOJ invoices, approve payments, and forward copies to departments.
- C. Hiring departments will be responsible for payment of invoices related to these procedures.

Conclusion:

Deviations to the procedures outlined above are expected when national searches are conducted. In such circumstances, it may be more practical to have all final candidates who are brought to campus undergo the LiveScan screening while here. If the candidate is not interviewing on campus, or is an out-of-state finalist, please contact Risk Management for procedures for the LiveScan process.

If circumstances require that an offer or decision be made before the completion of the investigation, the offer must be in writing and state that the offer is contingent on the completion of an acceptable criminal records investigation. *The new hire may not begin in the position, or an existing employee transfer, until the results of the screening are received and reviewed.*