

UC DAVIS CAMPUS

BACKGROUND CHECK PROGRAM GUIDELINES

A. INTRODUCTION

Background checks are conducted to ensure the continuing safety of our workforce, constituencies and community members, and security of University resources. Although this is no guarantee against criminal acts, it does reduce the likelihood of crime, and may reduce the campus's liability in the event a crime occurs.

A check of a final candidate's background is intended to serve as an important part of the selection process when hiring, transferring, updating position descriptions, promoting, and/or demoting individuals into critical positions. A background check is the last act in the hiring process for "critical" positions.

The background check is also an important part of the classification process when assigning new duties to an individual that would designate their new assignment as a critical position. A background check must be completed **prior** to the assignment of the new duties. Exceptions must be discussed with the appropriate office, AVC - Human Resources Office for MSP and Sr. Managers positions; Human Resource Office for PSS staff positions; Student Employment Center (SEC) for student assistant positions; and Graduate Studies for graduate student positions.

Fingerprinting for the background check will be conducted using Live Scan to capture and electronically transfer individual's fingerprints to the Department of Justice/FBI. After the individual's fingerprints are obtained, the results of the background check can be received in HR in one day, however the results may also take up to seven business days or longer to complete.

The background check policy covers career, limited appointment, contract, casual-restricted (student assistant) positions, and volunteers where the nature of the work meets critical factors. The policy covers ALL represented and non-represented staff and student personnel programs, including Senior Managers, Managers and Senior Professionals, and Professional and Support Staff. Police Officer and Public Safety Dispatchers will follow the mandates of the State of California, which require a more extensive background process to be handled directly by the Campus Police Department.

"Critical positions" are defined as positions that have or require:

1. Master key access to residence and other facilities. (e.g., custodians, police, telecommunication's crew, facility managers and other staff or student positions with master key access to any facility/building and/or campus residence).
2. Direct responsibility for the care, safety and security of human or animals; or the safety and security of personal and University property (e.g., physicians, nurses, student affairs officers, counseling psychologists, residence hall supervisors, coaches, or other staff or students providing professional counseling services directly to students and /or transporting staff or students, animal care personnel, child care services personnel including staff working with minors, public safety dispatchers, health and safety personnel, and recreation instructors).
3. Direct access to or responsibility for controlled substances or hazardous materials (e.g. pharmacists, pharmacy assistants, custodians, lab personnel, nurses, physicians, staff research associates).
4. Extensive authority for committing the financial resources of the University (e.g., ALL MSP and Sr. Manager positions, directors, assistant/associate directors, management services officers, accountants, architects, buyers, and other staff that have the extensive responsibility for approving purchases or committing financial resources).
5. Direct access to or responsibility for cash, cash equivalents, checks, or University property disbursements or receipts (e.g., cashiers, accountants, parking representatives, storekeepers,

and other staff responsible for petty cash, distribution of employee salary or reimbursement checks, and invoice approval and payment, collection managers, mail services, management services officers).

6. Direct access to and/or responsibility for protected, personal, or other sensitive data (e.g., auditors, development officers and staff, information systems personnel, HR and payroll staff, nurses, nurse practitioners, patient intake and billing staff, PC coordinators, physicians, programmers, registrars, staff research associates, student affairs officers, voc rehab counselors)
7. Direct access to and/or responsibility for information affecting national security.

See UC Business & Finance Bulletin BUS-49, and UCD Policy & Procedure Manual Section 330-55, for further information.

B. SCOPE OF BACKGROUND CHECK

The background check will seek only felony, felony-reduced-to-misdemeanor and misdemeanor convictions, and verification of identity. Background checks by staff programs will include:

- ✓ Senior Manager (SMG) and Manager and Senior Professional (MSP) positions:
Criminal conviction records, if any, using information/confirmation of a person's identity (fingerprinting) through the State Department of Justice (DOJ) and Federal Bureau of Investigation (FBI).
- ✓ Professional and Support Staff (PSS) positions:
Criminal conviction records, if any, using information/confirmation of a person's identity (fingerprinting) through the State Department of Justice (DOJ) and Federal Bureau of Investigation (FBI).
- ✓ Graduate Student Positions
Criminal conviction records, if any, using information/confirmation of a person's identity (fingerprinting) through the State Department of Justice (DOJ) and Federal Bureau of Investigation (FBI).
- ✓ Student Assistant positions:
Criminal conviction records, if any, using information/confirmation of a person's identity (fingerprinting) through the State Department of Justice (DOJ).

An **individual subject to a background check** shall not be required to disclose, nor shall any University background check investigate, an arrest, detention or report of abuse that did not result in a felony conviction as part of a background check unless such information is permitted or required by law.

A background check shall be conducted requesting information regarding an individual from their 18th birthday to the present. The only exception could be for employees who have contact with children under 18 or dependent adults or have direct responsibility for care, safety or security of patients in medical facilities.

C. RESTRICTIONS ON DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

All UC Davis employees who receive access to background check information obtained from the DOJ and/or FBI must first themselves, undergo a background check. Recipients of DOJ and/or FBI information are required to maintain confidentiality and only share information with authorized individuals in accordance with University, Department of Justice, and FBI regulations. In addition to such administrative actions as set out under UCD disciplinary policies and procedures, penalties for improper and unauthorized disclosure of background check information may include criminal prosecution as authorized by California Penal Code §§ 11140, 11142, and 11143.

The appropriate HR office will retain the background check results for thirty days, except where the background check results are relied upon to deny appointment or reclassification to the position. The results relied upon to deny appointment shall be kept for two years, or until the conclusion of any related grievances/litigation. The appropriate office, AVC - Human Resources Office for MSP and Sr. Managers positions; Human Resource Office for PSS staff positions; Student Employment Center (SEC) for student assistant positions; and Graduate Studies for graduate student positions will secure both paper and electronic files from unauthorized access.

Live Scan provides automatic updates on criminal subsequent arrests for individuals who have had a background check performed until such time as the University notifies DOJ/FBI that the individual is no longer employed. Upon receipt of a subsequent arrest notification leading to a conviction for a current employee in a critical position, Employee and Labor Relations shall review the information on a case-by-case basis in accordance with the principles of this policy.

D. PRINCIPLES OF GENERAL APPLICABILITY

1. Criminal record background checks will be shared **ONLY** with authorized individuals who have successfully completed a background check.
2. All recruitment information, announcements, and position descriptions must contain the following statement: "This position is a critical position and subject to background check. Employment is contingent upon successful completion of a background investigation including criminal history and identity check."
3. **The background check must be completed before a candidate is appointed to, or begins work in, a critical position.** Exceptions must be discussed with the appropriate office, AVC - Human Resources Office for MSP and Sr. Managers positions; Human Resource Office for PSS staff positions; Student Employment Center (SEC) for student assistant positions; and Graduate Studies for graduate student positions.

E. RESPONSIBILITIES OF THE DEPARTMENT

The department is responsible for:

1. Properly identifying positions subject to a background check. A "Background Check Worksheet" has been developed to assist hiring authorities in determining which positions are subject to a background check based on the Office of the President guidelines.
2. Filling out the "Background Check Determination Worksheet" http://www.hr.ucdavis.edu/background_check/index.html for any position requiring a background check and maintaining a copy of the worksheet with their recruitment file within the department. Posting of an open critical position, in addition to any other employment actions in support of "critical positions", shall identify that a background check is required to successfully complete the hiring process, See Managers/Supervisors Toolkit: <http://www.hr.ucdavis.edu/Elr/supervisor/index.html>
3. Providing the final candidate in a hiring process or current employee, in the case of a reclassification, with a notification form, obtaining his/her signature on an authorization/release/application form. All necessary instructions and forms are at <http://www.hr.ucdavis.edu/compensation/index.html>
4. Scheduling the applicant or employee for the fingerprint-based background check with the UCD Police Department by calling 752-6859 and requiring the final candidate or employee to bring picture identification (e.g. state driver's license, valid passport, or state identification card). ***Note, for off-site locations (e.g., ANR field stations, etc.) please contact your Employment Services Consultant/Recruiter.**

5. Paying the cost of all required background checks. The cost of the background check will be charged to the DaFIS account specified by the department on the request form. Effective July 1, 2014 the cost for student checks will be \$86.00 each; the cost for staff checks will be \$103.00 each.
6. Consulting with Human Resources/SEC to hire the candidate, or assign critical position duties.
7. Providing the new hire finalist with one of the three conditional offer letters. The conditional offer letters are available at: http://www.hr.ucdavis.edu/background_check/forms/conditional_offers.html
Note, a copy of the letter must be provided to the Employment Services Consultant (Recruiter).

Offer of employment contingent upon the individual successfully passing the background check;

Offer of employment with restrictions before the background check has cleared;

Offer of employment without restrictions before the background check has cleared.

F. RESPONSIBILITIES OF THE UC DAVIS POLICE DEPARTMENT

The UC Davis Police Department shall:

1. Upon request from the hiring department, conduct a fingerprint-based background check on final candidates for employment, reclassification, transfer, position description update, promotion, or demotion to a critical position, via Live Scan, to the Department of Justice/Federal Bureau of Investigation.
2. House and maintain the Live Scan equipment.
3. Train designated personnel in the rules, responsibilities and procedures related to the Live Scan Background Check process.

G. CRITICAL POSITIONS FOR NEW HIRE, TRANSFER, Position Description UPDATE, PROMOTION, OR DEMOTION

1. Upon obtaining the results of the background check, the DOJ/FBI will notify the HR Office. The authorized HR/SEC staff will review the background check results in comparison with the duties of the position and the critical criteria and notify the department that the individual has “cleared” or “not cleared” the check.
 - a. If the individual does “CLEAR” the background check, the appropriate HR/SEC staff member will notify the Hiring Authority and the hiring process may proceed. **Note, an individual must clear a background check before the individual is sent to Employee Health for a position requiring a pre-placement physical.**
 - b. If the individual does “NOT CLEAR” the background check, the department will be notified by the appropriate HR/SEC staff that the individual did not clear the check and that the department shall not make the final appointment. The department should be instructed to consider their second candidate and follow the same process of obtaining a background check for their second candidate.

H. CRITICAL POSITIONS FOR RECLASS

1. Upon obtaining the results of the background check, the DOJ/FBI will notify the HR Office of the findings. The authorized HR/SEC staff will review the background check results in comparison with the duties of the position and the critical criteria and notify the department that the individual has “cleared” or “not cleared” the check.
 - a. If the current employee does “CLEAR” the background check, the appropriate HR/SEC staff member will notify the department that the duties may be assigned and the reclassification review proceeds.

- b. If the current employee does "NOT CLEAR" the background check the department will be notified by the appropriate HR/SEC office that the employee did not clear the check and that the duties may not be assigned.

I. BACKGROUND CHECKS RESULTING IN "NOT CLEAR"

1. If a current employee does not clear a background check, the department shall consult with Employee and Labor Relations.
2. A current employee who does not clear the background check will not necessarily be separated or dismissed as a result of the check.

J. APPEAL PROCEDURE (Non-Selection for Transfer, Position Description Update, Promotion, Demotion or Re-class)

1. In the event a current student or staff employee is not selected for transfer, promotion, position description update demotion, or reclass to a critical position because of information obtained from a background check, the employee may file a grievance in accordance with, and to the extent allowed by, the provisions of the applicable contract or policy.
2. The student or staff employee, should he/she decide to challenge the proposed disqualification, must:
 - a. Within ten (10) calendar days from the date of the Notice of Intent to Non-Select, respond in writing to the Employee and Labor Relations Office. Employee and Labor Relations will review the information and facts for final determination as to selection/non-selection of the transfer, promotion, position description update, demotion, or re-class. Employee and Labor Relations will notify the employee, in writing, of the final decision via confidential campus mail, to the employee's official UC address, with Proof of Service.
 - b. Within 30 calendar days of the final decision, if the employee disagrees with the final decision, they can file a grievance as permitted by the applicable policy or labor contract.
3. The Human Resources department shall coordinate review of the response with the hiring department and notify the employee of the final decision within three (3) business days.
4. Should the employee fail to respond within ten (10) calendar days from the date of the Notice of Intent to Non-Select, their non-response shall be considered an agreement and acceptance of the background check information and the final selection process shall proceed
5. The Background Check Report, the Notice of Intent to Non-Select, the employee's response and the University's response shall be attached to the confidential file. The HR Office/SEC shall retain the file for two (2) years or until the conclusion of any related grievances/litigation.