

		<b>Policy #</b> <b>104</b>
<b>Subject:</b> Employment Background Checks		
<b>Responsible Department:</b> Personnel Services		
<b>Effective Date:</b> 09/1982		<b>Revision Date:</b> 08/2019
<b>David Devine</b> <b>Director of Personnel Services</b>		<b>Navdeep S. Gill</b> <b>County Executive</b>

### 1. **Purpose**

To protect the County, its employees, its assets and the public, the County needs to evaluate the background (including prior criminal history) of applicants for County employment in certain positions. For certain positions, the County must also perform additional checks into their background. The County recognizes that the need to investigate applicants' criminal and related background must be balanced with the need to protect those individual's privacy and to prohibit unlawful discrimination. County policy and state and federal laws recognize the individual's right to privacy and prohibit County employees and others from seeking, using or disclosing certain personal information except as appropriate within the scope of their assigned duties.

### 2. **Authority**

- Penal Code Sections 11105(b)(10) and 13300(b)(10)
- Civil Service Commission Rules 4.3(d) & (e), 4.6, and 11.4 (a) & (j)

### 3. **Who is Covered**

1. All final candidates for all regular, limited term or extra-help positions.
2. Full time, part time, seasonal, volunteer and contract positions.
3. Current employees who promote, demote or transfer to another job classification which requires a background check.
4. Returning employees, including retirees, after a break in employment of six months or more.

**Who is Not Covered**

The following are excluded from the background check policy unless, after consultation with the appointing authority, the Director of Personnel Services determines that the position poses a safety or security issue.

1. All positions within a criminal justice Agency (as defined in Section 13101 of the Penal Code).
2. Individuals re-hired from a County-wide or departmental re-employment list (unless a new check is required for compliance with any applicable Federal, state or local statute).
3. Employees returning to work after an approved leave without pay for a period of one year or less.
4. Employees demoted due to layoff (unless a new check is required for compliance with any applicable Federal, state or local statute).

**4. Policy**

To enable appointing authorities to make well informed selection/placements, a pre-employment background check will be conducted on any individual being placed in or promoted into certain job assignments.

The components of the pre-employment background check are established by the Department of Personnel Services or prevailing law or regulation and will be based on the job duties and assignments to be performed.

The County shall conduct background checks in accordance with the Fair Credit Reporting Act, the California Investigative Consumer Reporting Agencies Act and the California Consumer Credit Reporting Agencies Act.

Offers of employment and continued employment are contingent upon the completion of an acceptable background check, if it is required. A candidate may not start work until a required background check has been completed.

All final candidates who have been extended a conditional offer of employment will be required to sign appropriate authorization forms to conduct a background check (Attachments 1 and 2), which will be submitted as a part of the application process.

The information received in response to a background check will be treated as confidential, to the extent provided for by law.

## Employment Background Checks, Policy # 104

The components of the background check may include:

### Prior Employment Verification

Confirms the candidate's previous employment identified on the application; including dates of employment, positions held, job performance inquiry, and additional information available pertaining to performance rating, reason for departure and eligibility for re-hire.

### Professional Reference Check

Discussion with individuals who have worked with the candidate. The check includes leadership, communication, productivity, prior job performance and overall work ethic.

### Education/Certification/License Verification

Where the position has an educational, license or other certified job-related training requirement as specified in the job class specification. The check will confirm the candidate's claimed educational institutions, including years attended and the degree/diploma received or claimed certifications.

### Motor Vehicle records

Provides a report on an individual's driving history in the state requested. This check is applicable when driving is an essential requirement of the position.

### Criminal History Check

Includes a comprehensive review of criminal convictions. No employee, official, agent or representative of the County shall inquire into or consider the conviction history of an applicant until after a conditional offer of employment is made to and accepted by the individual.

The Department of Personnel Services will conduct the criminal history check by Live Scan (fingerprinting) on individuals performing the following job assignments:

- a. Direct access to criminal history records or criminal history information systems.
- b. Access to client personal, medical or financial information maintained on any information system used by the County to deliver services to the public.
- c. Supervised or unsupervised access to, care of or contact with vulnerable populations, including children, the elderly, the disabled, the mentally impaired, special needs or their family members or caregivers.

## Employment Background Checks, Policy # 104

- d. Such financial responsibilities as a) the handling of money on behalf of the County; b) the authority to commit the financial resources of the County and its departments; and/or c) the exercise of fiduciary responsibility for the client's funds, real estate or investments.
- e. Direct access to vital records and/or real property records.
- f. Direct access to private homes or property of citizens as part of the regular and customary duties of the job assignment.
- g. Use of firearms.
- h. Care or handling of animals.
- i. Use of or access to non-public, confidential information.
- j. Direct access to pharmaceuticals or other controlled substances on County premises or in client residence.
- k. Facility master key access.
- l. Provision of information technology technical support and also responsibility for safeguarding the County's Information Technology assets (including computer systems, networks, and/or Internet/Intranet).
- m. Access to a County correctional facility, Department of Technology, District Attorney's Office, Public Defender's Office, Coroner and Sheriff's Department.
- n. Direct access to information that is protected by a legal privilege, including but not limited to attorney-client, health care information, private personnel information.
- o. Those at the County Executive or Deputy County Executive or Department head level position or equivalent.

In addition, the County will conduct a criminal history check on any person whose job duties or qualifications specifically require a criminal history background check under contract, state or federal law or regulation.

Federal criminal history checks may be required by law for certain positions in certain County Departments (e.g. Department of Airports, Department of Child Support Services or the Department of Technology). The County shall comply with all federal requirements pertaining to the processing of a Federal criminal history check.

### Consumer Credit History Check

Credit history checks will consist of: 1) Civil Records Check; 2) Credit Check and 3) Social Security ID Trace.

Federal and state laws restrict the use of credit information in the hiring process. The County can only use credit information for certain employment purposes. Such credit checks shall be conducted in

## Employment Background Checks, Policy # 104

accordance with both the Consumer Credit Reporting Agencies Act (CCRA) and the Fair Credit Reporting Act (FCRA).

The Department of Personnel Services shall coordinate credit history checks for any person who is appointed to a County position with any of the following duties:

1. The individual is or will be a named signatory on the County's bank account or credit cards; or
2. The individual is or will be authorized to transfer money on behalf of the County; or
3. The individual is or will be authorized to enter into financial contracts on behalf of the County; or
4. The individual will be appointed or assigned to a position that involves regular access to \$10,000 or more in cash during the work day; or
5. The individual will be appointed or assigned to a position that involves direct access to and discretionary control over, funds of the County, the State or clients served by the County.

### Welfare Records Check

The County shall conduct a check of its Welfare System records on any person whose position will have direct, frequent and routine duties in the administration and delivery of welfare programs and services (i.e. determination of eligibility, administration of state or federal funds, or access to sensitive client information). The County will conduct such check to determine if there has been a final determination either through an administrative hearing or judicial action of the following:

- 1) Failure to report client caused overpayments greater than \$1,000 during the prior five (5) years
- 2) Intentional program violation or administrative disqualifications resulting in payment of any amount of welfare benefits during the prior ten (10) years.
- 3) Criminal conviction related to fraudulent receipt of welfare benefits during the prior fifteen (15) years.

Notwithstanding any other provisions in this Policy, any final determination of the above events may disqualify the candidate from County employment in any position that will have direct, frequent and routine duties in the administration and delivery of welfare programs and services.

In order to conduct a check of the County's own confidential databases, a signed authorization must first be obtained from the individual (Attachment

## Employment Background Checks, Policy # 104

- 1). Any such check will be performed only after a conditional job offer is made.

### **Using Background Investigation Results**

#### Criminal History

For the purpose of this policy “crime” means any and all felonies and misdemeanors, but does not include minor traffic offenses for which the penalty is a fine. Records that have been expunged by a court of competent jurisdiction generally do not appear on an individual’s criminal record and will not be included in information contained in a background check. Expunged or dismissed incidents are not considered in the evaluation of the information reported from the Department of Justice.

Having a criminal history, a criminal conviction, or a motor vehicle violation does not necessarily preclude employment. The County will complete an individual assessment and will take into account the following:

1. Falsification of application material pertaining to the conviction(s);
2. The nature and gravity of the offense or conduct;
3. The time that has passed since the offense or conduct and completion of the sentence;
4. The nature of the job held or sought;
5. Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents or criminal conduct;
6. The length and consistency of employment history before and after the offense or conduct; and
7. Rehabilitation efforts (e.g. education or training)

The final decision to proceed with the hire, assignment or appointment after consideration of mitigating circumstances is the responsibility of the Department Appointing Authority, but shall be made in consultation with the Department of Personnel Services.

#### Adverse Findings

If a background check discloses a criminal conviction that could potentially lead to an adverse employment action, and a preliminary decision is made to change the job offer status, the Department of Personnel Services will notify the candidate in writing. The notification shall contain notice of the disqualifying conviction or convictions that are the basis for the preliminary determination to rescind the offer, a copy of the conviction history report (if applicable), and an explanation of the applicant’s right to respond to the

## Employment Background Checks, Policy # 104

preliminary decision before the decision becomes final, along with the deadline by which to respond. The explanation shall inform the applicant that the response must include evidence challenging the accuracy of the conviction history report and/or evidence of rehabilitation or mitigating circumstances.

The applicant shall have up to 10 business days from the date of receipt of the written notice to respond to the notice before the County makes a final decision. If, within the 10 business days, the applicant notifies the County in writing that he or she disputes the accuracy of the report and that he or she is taking specific steps to obtain evidence supporting that assertion, then the applicant shall have an additional 10 business days to provide to the County corrected documents.

The County shall consider information submitted by the applicant before making a final decision. It is the applicant's or employee's responsibility to correct a disputed criminal history record with the State Department of Justice. If the applicant or employee is challenging the accuracy of the conviction history report, the County may require a corrected criminal history report to verify the disputed information has been corrected.

If the final decision is to deny an application solely or in part because of the applicant's conviction history, the County shall notify the applicant in writing of the final denial or disqualification, and the candidate's right to file a complaint with the Department of Fair Employment and Housing.

All persons subject to this policy will utilize forms provided by and cooperate with the Department of Personnel Services to authorize that the background checks be conducted. Failure to cooperate shall be deemed a failed background check and may be cause for an adverse action including rejection or dismissal.

Falsification of information submitted in application materials or forms supplied by the Department of Personnel Services may be cause for adverse action, including rejection or dismissal.

### Responsibilities

The hiring department is responsible for checking professional and/or personal references, employment verifications, and proof of credentials for final candidates for employment. All information obtained by the hiring Department shall be maintained in a secure and confidential manner.

## Employment Background Checks, Policy # 104

Personnel Services is responsible for obtaining and maintaining completed acknowledgment and authorization forms. Personnel Services is also responsible for coordinating criminal history background checks, coordinating credit history checks and welfare record checks. This responsibility includes adherence to applicable laws, including, but not limited to the Fair Credit Reporting Act (CRS 24-5-101), and proper record keeping and retention of sensitive information. All information obtained by Personnel Services shall be maintained in a secure and confidential manner.

Every effort will be made to ensure that the use of background check information does not impede the hiring process and does not result in unlawful discrimination.

### Costs

Background check fees are paid by the hiring department. Costs incurred by the Personnel Services Department on behalf of the hiring department for such services will be charged back to the hiring department.

### Subsequent Conviction Notification

For all positions subject to this policy, County Departments shall enroll in the subsequent conviction notification program through the Department of Justice.

Any individual convicted of a felony or misdemeanor offense after they have been offered employment or have started employment must contact Personnel Services within five (5) business days of the conviction and provide detailed information about the conviction. Personnel Services will work with the appropriate Department to assess the conviction's potential impacts on the individual's ability to successfully perform the assigned duties.

### Independent Contractor/Temp Agency Staff

An employment verification, background check and/or criminal history check is required for any independent contractor or temp agency staff and the contractor's agents and employees, whether or not working at a County facility or off-site, on the same terms and conditions and to the same extent as required of prospective and existing County employees and volunteers performing the same type of services and functions. Such checks shall be conducted in accordance with applicable federal and/or state law. The



## Employment Background Checks, Policy # 104

requirements as well as the responsibility for conducting such checks shall be established in the contract.

### Confidentiality

County employees who receive access to background check information are required to maintain confidentiality and only share information with authorized individuals. Failure to maintain confidentiality may result in disciplinary action, up to and including dismissal.

### Job Announcement

Job announcements for positions at the County of Sacramento will include language advising applicants that they must consent to and successfully complete a background check prior to any final appointment, hiring or promotion decision. Offers for appointment are contingent upon the applicant passing the necessary background check(s).

### Administrative Guidelines

Additional information and guidelines/procedures for compliance with this policy can be found in the accompanying "Administrative Guidelines."

## **5. Review**

To be reviewed every 5 years or as needed to reflect changes in the law.