

SECTION: 3.0 Personnel

SUBJECT: Background Checks

Title: Background Checks

Background: The purpose of this policy is to establish background check guidelines for employees and certain contractors and volunteers

Point of Contact: Human Resource Services

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: President's Office, Academic Affairs, Administrative Services, Student Affairs, Public Safety

Date of approval by LCSC authority: July 11, 2023

Date of State Board approval: N/A

Date of most recent review: July 11, 2023

Summary of Major Changes incorporated in this revision to the policy: This is a new policy.

Policy Statement: To secure the safety and well-being of campus community members and institutional assets, it is the policy of Lewis-Clark State College (LC State) to ensure that potential employees and particular contractors and volunteers have certain credentials and/or criminal or other background information verified through appropriate background check procedures.

1. Definitions

- A. Adverse Action – Failure to hire an applicant or withdrawing an offer of employment based on adverse findings in a background check.
- B. Applicant – An individual selected for a position they do not currently hold at LC State and who has not had a background check performed within the last twelve (12) months. Applicants can be new to LC State or employees rehired with a break in service greater than twelve (12) months.
- C. Background check – A background check consists of one or more verification processes, including, but not limited to, a criminal conviction check, sex-offender registry, verification of employment, academic degrees and credentials, and/or driver's license check.
- D. Convictions – For purposes of this policy, the term conviction will be interpreted to include pleas of no contest, deferred adjudications, judge or jury trial convictions, guilty pleas, and similar dispositions of a felony or misdemeanor other than minor traffic violations.
- E. Criminal Conviction Check – A review of an applicant's background may include criminal records (misdemeanor and felony convictions). Criminal background checks will be conducted in the states, cities, and counties of known residences where the applicant lived or worked for up to seven (7) years and will include available sex offender registries in those areas.
- F. Minor Traffic Violations – Moving violations or traffic infractions that do not involve alcohol, controlled substances, or reckless or aggressive driving.
- G. Personally Identifiable Information (PII) – The combination of an individual's unsupervised access to minors or having access to Personally Identifiable Information, confidential information, laboratory facilities, regulated facilities, student housing, controlled substances, or hazardous materials.

2. Authority and Responsibilities

- A. The Offices of Human Resource Services (HRS or Human Resource Services), Public Safety, and LC State KinderCollege are solely authorized to conduct and oversee the employment-related background check process on behalf of LC State. These departments may work with law

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enforcement or contract with outside agencies to execute any of the obligations in this policy. HRS is responsible for consulting with the appropriate appointing authority in making decisions regarding what type of background check is appropriate, interpreting background check records and information, determining whether an applicant is eligible for employment, making personnel recommendations to the hiring department, and determining whether a volunteer or contractor may perform services for LC State. HRS will work with supervisors to ensure employment is contingent upon the successful completion of a background check for all newly hired employees and volunteers working with minors.

- B. At the time an applicant is selected and accepts an offer of employment, HRS will provide the necessary background check authorization form(s) and procedures as part of the contingent job offer. The applicant must complete the appropriate form(s). The background verification will then be returned to HRS. HRS will review the background check and will inform the supervisor if the background check is clear or may need further review.
- C. Notification of Intent to Take Adverse Action. If a background check report yields information that may form the basis for an adverse action, a copy of the report will be provided to the applicant. The applicant will then have five (5) business days to contest the accuracy of the information contained in the report. The applicant may contest the accuracy of information and provide relevant information regarding the circumstances by sending an email to HRS at hr@lsc.edu, for review. If the applicant fails to disprove the accuracy of the information to the reasonable satisfaction of LC State, LC State may then take adverse action.
 - i. Once the accuracy of adverse information has been verified with the reporting source, the director of Human Resource Services will forward the report to the hiring manager and the respective president/vice president, or their designated representatives, who will determine whether the applicant is eligible for employment based on all facts and circumstances, including:
 - a. relevance of adverse information to specific position responsibilities; and
 - b. falsification of application materials pertaining to the adverse information; and
 - c. circumstances relating to adverse information.
 - ii. Due to potential conflicts of interest and confidentiality concerns, information gathered during any background check will not be disclosed to search committees or employees assigned to the department, college, or the unit conducting the search (other than the employees listed in C.i.).
- D. A prior criminal conviction does not automatically disqualify a volunteer, applicant, or employee from employment, promotion, transfer, or a volunteer position. The criminal history will be evaluated by the hiring manager, VP/president for relevance to the specific position responsibilities. The evaluation may include, but is not limited to:
 - H. first and last name plus one or more of the following:
 - i. Social security number;
 - ii. Bank account number; or
 - iii. Credit card number.
 - I. Volunteer – Any person who is not an employee, contractor, or selected applicant and who provides a service to the college without expectation of payment that involves direct and

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falsification of application materials or other LC State records pertaining to the conviction(s); and/or

- i. length of time that has passed since the conviction(s) occurred; and/or
- ii. applicant's age at the time the convicted crime(s) was committed; and/or
- iii. employment record subsequent to the conviction; and/or
- iv. length of LC State service and performance (for promotions and transfers).

3. Procedures

- A. All applicants selected for employment at LC State must consent to a background check as a condition of employment. Any applicant who refuses to consent to a background check, refuses to provide information necessary to conduct the background check, or provides false or misleading information will not be considered for the position for which he or she has applied. Any applicant who has already been hired or promoted and is subsequently found to have provided false or misleading information related to the background check may be subject to disciplinary action, up to and including termination.
- B. Certain individuals seeking to perform as volunteers may be required to consent to a background check as a condition of performing volunteer services. Any potential volunteer who refuses to consent to a background check, refuses to provide information necessary to conduct the background check, or provides false or misleading information will not be permitted to perform the volunteer services for which a background check is required.

Individuals who will be interacting with minors participating in programs, whether sponsored by LC State or a non-college program, must have a completed background check and approval prior to the individual's participation in such program(s). Please review LC State Policy 4.135 Minors on Campus for additional information.

- C. Certain individuals seeking to perform work as contractors may be responsible for conducting background checks on all employees, agents, and subcontractors that provide services to LC State. Upon request, said contractors may be required to provide certification that such background checks have been performed.

Contractors performing work involving minors, or having access to Personally Identifiable Information (PII), confidential information, laboratory facilities, regulated facilities, student housing, controlled substances, or hazardous materials are responsible for conducting background checks on all employees, agents, and subcontractors that provide services to LC State, and upon LC State's request, and must certify that such employees, agents, and subcontractors have satisfactorily completed the background check. Failure to complete the background check or provide certification that the background check was completed may result in the termination of the contractor's services.

- D. All offers of employment for positions are contingent upon a background check. Employment shall not be effective until HRS has notified the hiring manager that the applicant has a clean background check.
- E. Background checks will be conducted on:
 - i. all new employees or employees rehired with a break in service greater than twelve (12) months; and
 - ii. all current employees who are hired, promoted, or transferred into a new position or who have a significant change in job duties unless a prior Background Investigation appropriate

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for the position was performed within the last twelve (12) months. For purposes of this policy, a promotion does not include advances in academic rank, such as progression from an assistant professor to an associate professor, or when there is a reclassification in title for staff positions that do not require a competitive application and selection process or other recruitment waiver. For classified staff, a promotion occurs when the employee is appointed to a class with a higher pay grade than his/her current position through a competitive application and selection process. For non-classified staff, a promotion occurs when the employee accepts a higher-level job title through a competitive selection process or approved recruitment waiver with an increased salary. For faculty positions, a promotion occurs when a faculty member accepts an administrative position with increased and/or different position responsibilities through a competitive selection process or approved recruitment waiver along with an increase in salary;’ and

- iii. volunteers meeting the criteria described in the “Definitions” section of this policy, (See 7.G); and
- iv. employees interacting with minors as defined in LC State Minors on Campus policy 4.135 will have backgrounds performed no less than once every five years.

4. Criminal History Check

The gathering of in-state and out-of-state criminal history records including misdemeanor and felony criminal convictions and sex-offender registries. These records are obtained from law enforcement agencies or third-party vendors.

5. Driver’s License Record Check

Driver’s license record checks are separate and distinct from a background check and will be conducted as per [Policy 4.112 Use of College-Owned and College-Rented Vehicles](#).

6. Notification of Criminal Charges

- A. As a condition of continued employment, every employee must inform their supervisor within two (2) business days if they are charged with any crime other than a minor traffic violation. This includes circumstances where an employee is charged with a crime while off contract, such as faculty and staff during the summer months. Exceptions to the timely notification may be considered based on case-specific extenuating circumstances. Employees who fail to self-disclose in a timely fashion may be subject to disciplinary action, up to and including termination. Any supervisor notified of a post-employment criminal charge must inform HRS and their respective management chain. Failure to do so within a timely fashion may lead to disciplinary action, up to and including termination.
- B. Upon learning of the arrest of or filing of criminal charges against an employee, the supervisor, appropriate vice president, and the director of HRS, will determine as to whether the employee may continue to perform their job responsibilities or should be placed on administrative leave pending the outcome of any or all legal proceedings. This determination may be made using factors that include, but are not limited to:
 - i. whether the employee complied with the mandatory notification requirement as listed in section 6.A; and/or
 - ii. the gravity and nature of the charges in relation to the employee’s job responsibilities; and/or
 - iii. length of LC State service and performance while employed; and/or prior criminal convictions.