

	LOS ANGELES COMMUNITY COLLEGES HUMAN RESOURCES GUIDE	HR P-112
		CRIMINAL BACKGROUND INFORMATION
ISSUE DATE: September 28, 2017	SERVICE: <input checked="" type="checkbox"/> ACADEMIC <input checked="" type="checkbox"/> CLASSIFIED <input checked="" type="checkbox"/> UNCLASSIFIED	
REPLACES: <u>Legacy Personnel Guides:</u> C324 C325 C326 C327	CHANGES: New	

I. POLICY

The District is committed to prioritizing the safety of its employees, students and members of the public, and the protection of District property. Accordingly, the District reviews and considers criminal background information for employment purposes pursuant to the policy and procedures set forth herein, and state and federal law.

II. DEFINITIONS

- An **Arrest** is taking a person into custody, in a case and in the manner authorized by law. (Penal Code § 834.)
- A **Conviction** is the outcome of a criminal prosecution in which a criminal defendant is found guilty. (Penal Code § 689.)
- **Criminal Background Information** include records containing information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the Department of Justice, or any other repository of criminal history records; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.
- **Fingerprinting** is the system used to identify employees in order to ascertain their possible criminal history.
- **Live Scan** is the system used for the electronic submission of applicant fingerprints and the subsequent automated background check and response.
- **Offense** means violation of law or criminal offense. Generally, offenses are classified based on their severity and seriousness of punishments.

III. REQUIREMENTS

A. Procedures for Conducting Criminal Background Information Check

Criminal background information checks are required for all final candidates considered for new hire and persons who are under consideration for District positions in which a criminal background information check is required by law. In addition, people who are rehired or have a change of service assignment may be required to undergo a criminal background information check pursuant to LACCD Guide HR P-111. Persons required to undergo a criminal background information check pursuant to this policy must: (1) complete a Report of Convictions (HR-4) self-disclosure form, and (2) be fingerprinted (see LACCD Guide HR P-111).

B. Report of Convictions Self-Disclosure Form

Persons required to undergo a criminal background information check pursuant to this policy must complete LACCD Form HR-4, Report of Convictions. Pursuant to Labor Code sections 432.7 and 432.8, convictions that have been judicially dismissed or ordered sealed or expunged pursuant to law, and certain marijuana related convictions which are more than two years old shall not be disclosed. All other convictions must be disclosed. When completing the form, employees should be cautioned that incorrect or incomplete information may delay assignment processing.

C. Failure to Disclose Criminal Background Information

Failure to accurately complete the Report of Convictions form could lead to an employee's disqualification from employment or, if already a District employee, discipline up to and including dismissal.

D. Live Scan Fingerprint Service

Persons required to undergo a criminal background information check pursuant to this policy must be fingerprinted before processing of their assignment can be considered complete. All fingerprints taken are screened by the Department of Justice. Appointments should be scheduled upon acceptance of employment, but should be scheduled no later than ten (10) working days prior to the first day of employment service.

Except for Child Development Center (CDC) employees, all appointments for fingerprints are scheduled through the Personnel Office at the hiring location and the hiring location Personnel Office is considered the designated contact for live scan services. Child Development Center (CDC) employees are typically not fingerprinted at a District Live Scan Site but are to be fingerprinted at contracted locations. The Director of the Child Development Center schedules appointments for CDC employees. Nevertheless, CDC employees may be required to also fingerprint at a District live scan site.

Employees must present one form of valid photo identification, such as a state issued driver's license or identification card, passport, or military identification card to the Live Scan operator. In the absence of one of the above forms of photo identification, the employee should communicate with their designated service contact for assistance with determining what is considered an acceptable secondary form of identification. Expired identification cards will not be accepted.

E. Employment Standards for Persons with Convictions

The District shall evaluate criminal background information to determine whether the criminal conviction history disqualifies the person from the position. With the exception of peace officer positions, certain positions within a public health facility, and positions that have supervisory or disciplinary authority over any minor, the District shall not consider a person's prior arrest(s) which do not result in conviction in determining whether the person is disqualified from the position.

1. Education Code Section 87405

Education section 87405 provides that the District shall not employ or retain in employment persons who have been convicted of any sex offense as defined in Education Code section 87010 or controlled substance offense defined in Section 87011. Accordingly, in instances where Section 87405 applies to a person's criminal conviction history, the District shall not employ or retain the person.

2. Individualized Assessment of Criminal Conviction History

In instances where Education Code section 87405 is not applicable to a person’s criminal conviction history, any of the following factors can be considered for determining whether the person with a conviction history may be disqualified from the position:

- a. The nature and gravity of the offense resulting in a conviction;
- b. The number of offenses for which the applicant was convicted;
- c. The time that has passed since the offense and completion of the sentence;
- d. The nature of the position;
- e. The relationship of the offense to the work to be performed in the position;
- f. The length and consistency of employment history before and after the offense;
- g. Evidence that the applicant performed the work to be performed in the position, post-conviction, with no known incidents of criminal conduct; and
- h. Evidence of rehabilitation efforts (e.g. education, training).

3. Guidelines for Review of Criminal Convictions

The following categories are considered to be guidelines since it is not feasible to include all convictions. Convictions other than those listed in these guidelines shall be considered based on their relationship to the standards set forth below.

- a. **Offenses Barring Employment.** Persons convicted of any of the convictions listed in this section are usually not considered for employment.

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| Crime against LACCD | Kidnapping |
| Rape | Murder |
| Mayhem | Mann Act (Human Trafficking) |
| Unjustifiable punishment of a child | Poisoning |
| Assault with intent to rape, murder, commit crime against nature, or mayhem | Statutory Rape |

- b. **Offenses Usually Barring Employment for at Least 10 Years.** Persons convicted of any of the offenses listed in this section are usually not considered for employment for at least 10 years after the date of arrest or the date of complaint filed, whichever is earlier. The following offenses, when classified by the court as felonies:

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| Arson | Manslaughter |
| Counterfeiting | Perjury |
| Extortion | Robbery |
| Fraud | Subornation of Perjury |
| Fraudulent Appropriation | Grand Theft |
| Assault with deadly weapon (Felony) | Malicious Mischief (vandalism) |
| Burglary | Manslaughter (while driving a vehicle) |
| Conspiracy to commit a crime | Passing fictitious checks |
| Driving Under Influence (more than once) | Receiving Stolen Property |
| Forgery | |

c. Offenses Usually Barring Employment for at Least 5 Years (Misdemeanors).

Persons convicted of any of the offenses listed in this section are usually not considered for employment for at least 5 years after the date of arrest or date of complaint filed, whichever is earlier. The following offenses when classified by the court as misdemeanors:

Abandonment and neglect of children	Grand Theft
Assault with a deadly weapon	Manslaughter (while driving a vehicle)
Burglary	Passing Fictitious Checks
Conspiracy to commit a crime	Receiving Stolen Property
Extortion	Fraud
Forgery	

d. Offenses Usually Barring Employment for at Least 3 Years (Misdemeanors).

Persons convicted of any offenses listed in this section may be disqualified from employment for at least 3 years after the date of arrest or date complaint filed, whichever is earlier.

Assault	Driving Under Influence
Battery	Malicious mischief (vandalism)
Corporal injury of a spouse or cohabitant	Prostitution
Carrying concealed weapon	Vagrancy (more than once)
Contempt of court	Petty theft
Contempt of court for nonsupport	
Disorderly conduct	
Disturbing the peace	

4. Appeal of Possible Disqualification from Employment:

If, after evaluating the criminal background information, the District determines that the person may be disqualified from the position, the District shall: (1) inform the person that he/she may be disqualified from the position based on his/her past criminal conviction history, and (2) provide the person with an opportunity to explain the circumstances regarding his/her criminal conviction history.

The District shall make a final determination on whether the person's criminal conviction history disqualifies the person from the position based upon the factors set forth above. All District determinations made based upon criminal background information are subject to administrative review by Employer-Employee Relations at the request of the person subjected to the criminal background information check. When the District determines that the person may be disqualified from employment, the person shall be sent written notification to that effect via regular and certified mail. The request for administrative review must be submitted to Employer-Employee Relations in writing within fifteen (15) business days from the date on the notification letter, along with any supporting documents the person wishes to submit for consideration.

If the person does not provide the District with any information on the circumstances regarding his/her criminal conviction history, the District shall make the determination without the information from the person.

5. Release of Criminal Offender Record Information (CORI)

Whenever state or federal summary criminal history information furnished by the Department of Justice is a basis for an adverse employment decision, the person to whom the information relates shall be furnished a copy of the information. When

furnished other than in person, the copy shall be sent via regular and certified mail to the last contact information provided by the applicant.

IV. Additional Resources

CALIFORNIA EDUCATION CODE

Section 87013

Section 87405

Section 87010

Section 87011

Section 88024

LACCD BOARD RULES

Chapter X, 10105.10

LACCD HUMAN RESOURCE GUIDE

[HR P-111 Fingerprints](#)