



COUNTY OF EL DORADO, CALIFORNIA

BOARD OF SUPERVISORS POLICY

Subject: Pre-Employment Background Check	Policy Number: E-4	Page Number: 1 of 5
	Date-Originally Adopted: 04/24/2018	Last Revision ed Date: <u>0905/2018</u> /2022

I. PURPOSE

The purpose of this policy is to:

- A. Establish a County policy for requiring and conducting pre-employment background checks on 1) all potential new hires, volunteers, unpaid interns, and 2) current employees promoting to executive-level positions, as defined herein. The successful operation of departments within the County of El Dorado (County) is dependent upon selection of individuals who possess the required knowledge, skills, abilities, and valid credentials.
- B. Provide exceptions to this policy for positions which are subject to other legally required background checks; in which case, background checks for such positions will be completed in accordance with this policy, or in the manner prescribed, by the prevailing law or regulation.

II. EXCEPTIONS

- A. Exception(s) to applicable provision(s) of this policy shall be made for any position which is otherwise subject to any differing state, federal, or local statutory or regulatory requirements for background checks for employment purposes or restrictions for employment based on criminal history.
- B. In accordance with Government Code 12952, criminal justice agencies, as defined in Penal Code 13101, are exempt from this policy and shall conform to the prevailing laws and regulations.
- C. Candidates will not be cleared for hire until their background checks have been completed, unless the Director of Human Resources approves a special exemption pending receipt of the background report. The Director of Human Resources may waive the background check for a candidate for extra help, volunteers, or interns, if the employment is intermittent or occasional in character and not on a full-time basis. The Director of Human Resources may also waive the background check for non-employees meeting the risk-sensitive criteria if some factor sufficiently mitigates the risk, such as the brief duration of the assignment or placement.

III. POLICY

- A. New Hires and Promotion to Executive-Level Positions

It is the policy of the Board of Supervisors to have pre-employment background checks conducted on all new hires (regular and extra help) and for all promotional candidates for



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positions at the Assistant Director level or higher. All offers of employment and promotion to positions at the Assistant Director level or higher shall be conditional until a background check is completed.

To enable appointing authorities to make well-informed selections/placements, a pre-employment background check will be conducted prior to every new hire or rehire following a separation from employment for regular, limited term, and/or extra help employment at the County, following a conditional offer of employment. Notwithstanding the foregoing, reinstatement of individuals following layoff shall be consistent with the applicable bargaining unit Memorandum of Understanding or other applicable agreement with such bargaining unit, which shall take precedence over any conflicting provision of this policy. Employees who transition from an extra help appointment to a regular appointment must undergo a DOJ live scan unless the individual has a current DOJ live scan. A DOJ live scan is “current” during the period between when the individual has undergone the initial live scan process and the time the DOJ is sent an NLI (No Longer Interested) notice from the County regarding such individual due to the individual’s separation from County employment; the County will receive any applicable subarrest notifications from the DOJ regarding the individual while the live scan is current.

The components of the pre-employment background check are established by the Human Resources Department or prevailing law or regulation based on the classification and job assignment. However, such check may include:

- Criminal History: Includes a comprehensive review of criminal convictions. Consistent with California Assembly Bill 1008, 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. No application for employment with the County shall include any question that seeks the disclosure of an applicant’s conviction history before a conditional offer of employment has been made by the County. Except as permitted under the exceptions listed in Section II of this policy, the County will not consider any of the following while conducting a conviction history background check in connection with any application for employment:
 1. An arrest not followed by conviction, except as permitted in paragraph (1) of subdivision (a) and subdivision (f) of Section 432.7 of the California Labor Code;
 2. A referral to or participation in a pretrial or post-trial diversion program; or
 3. Convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law.



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- **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 rehire. This verification will generally be run on the past three employers or the previous ten years, whichever comes first, unless additional verification is requested by the appointing authority.
- **Educational Verification**: Where the position has an educational requirement beyond a high school diploma or equivalent, the check shall confirm the candidate's claimed educational institution(s), including the years attended and the degree/diploma(s) received.

Additional checks may be conducted if deemed appropriate for the classification and assignment, including, but not limited to:

- **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.
- **Credit History**: Confirms candidate's credit history. This check is applicable for positions that involve management of County funds and/or handling of cash or credit cards.
- **Certification Records**: Where the position has a licensure or other certified job-related training requirement, the check shall confirm the candidate's claimed certification(s), including issuing body or bodies, and date(s) of issuance and expiration as applicable.

B. Non-Employees

A pre-appointment background check will be conducted on potential volunteers, unpaid interns, or agents who will be placed in risk-sensitive assignments, or Board appointed committee or commission members that have legislative authority to make decisions or access to confidential information that is not otherwise available through the public records process, as determined by the Director of Human Resources or the Risk Manager. The components of the background check, including criminal records check, are established by the Human Resources Department based upon the law, assignment, or terms of agreement. Risk-sensitive as defined for non-employees may include:

- Unsupervised access to or care of vulnerable populations, including children, the elderly, the disabled or the mentally impaired;
- Care or handling of animals;
- Direct access to prescription drugs or other controlled substances;



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- Handling of cash or credit cards;
- Use of or access to non-public, confidential information;
- Use of or contact with hazardous substances, dangerous equipment or materials, or unsafe environments;
- Use of a County vehicle or personal vehicle used for County business;
- Use of password-protected County information systems; or
- Other risk-sensitive populations or functions as determined by rule, regulation, law, the appointing authority, or the Director of Human Resources (Director) or his/her designee.

C. Costs

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

IV. PROCEDURE

Once a final candidate is selected, the hiring department shall make a conditional offer of employment to the candidate contingent upon passing a County pre-employment background check. After acceptance of the conditional offer, the candidate must complete any background check disclosure, release, and authorization form(s) and processes as prescribed by the Human Resources Department and/or the vendor(s).

The hiring department shall request the background check in the manner and method prescribed by the Human Resources Department or prevailing law or regulation.

A designated Human Resources Department representative will order background checks, review all results, and notify the hiring manager regarding the results of the background check.

If an offer of employment is also conditional on the successful completion of a medical exam, the medical exam cannot be initiated until after the candidate successfully completes and passes the background check.

In instances where negative or incomplete information is obtained, the appointing authority and the Director of Human Resources will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired. If the information involves an applicant's conviction history, the decision will be based on an individual assessment of whether the conviction history has a direct and adverse relationship with the specific duties of the job. This assessment shall consider the nature and gravity of the offense or conduct, the time that has passed since the offense or conduct, and the complexity-completion of the sentence, and the nature of the job sought. If the preliminary result of this assessment is to disqualify the applicant, the applicant shall be notified in



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writing. This notice shall identify the disqualifying conviction or convictions, provide a copy of the conviction history report, ~~and~~ give the applicant at least five (5) business days within which to respond in writing, ~~and state that~~ ~~such~~ response may challenge the accuracy of the conviction history report, offer evidence of rehabilitation or mitigating circumstances, or both. The applicant shall receive an additional five (5) business days if he or she challenges the accuracy of the conviction history report and indicates that he or she is taking specific steps to obtain evidence supporting that challenge. Information provided by the applicant within these deadlines will be considered prior to a final employment decision. If the final decision is to deny employment, the applicant shall be so notified in writing, and ~~the~~ notice shall state the applicant's right to file a complaint with the California Civil Rights Department ~~(formerly the California Department of Fair Employment and Housing.)~~ In addition, if a decision not to hire or promote a candidate is made based on the results of a background check, there may be certain additional Fair Credit Reporting Act (FCRA) requirements that will be handled by the Human Resources Department in conjunction with the employment screening service (if applicable).

V. REFERENCES

- California Assembly Bill 1008
- California Assembly Bill 218
- California Fair Chance Act
- Government Code 12952
- Penal Code 13101

VI. RESPONSIBLE DEPARTMENT

Human Resources Department

VII. DATES ISSUED AND REVISED; SUNSET DATES:

Date Adopted:	04/24/2018	Sunset Review Date:	05/10/2024
Revision Date:	05/10/2022 <u>09/20/2022</u>	Next Review Date:	05/10/2024