To: Academic Senate

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RE: Criminal Record Checks

At the February 12, 2015 Academic Senate meeting, a question was asked regarding the requirements for fingerprinting faculty applicants during their on-campus interviews. The comment was made that fingerprinting a faculty candidate seems counter to the atmosphere and initial impressions that we want to create for these candidates. Is there an alternative approach?

**Background**

In 2012 the Chico campus implemented a Criminal Background Verification Policy that followed guidelines set forth by the Office of the Chancellor. The Chico policy requires criminal records checks for all final applicants before an offer can be made and they can be hired. This decision was discussed and approved at the Cabinet level in 2011. The Provost at that time elected not to take the policy to CAD.

Chico began fingerprinting applicants for designated positions in or about the spring of 2004. In July 2005 a procedure was drafted in response to the systemwide policy. That policy included conducting checks on current employees moving to sensitive positions. CSUEU objected to the policy and to the fact that faculty were not included. In 2011 the campus decided to conduct checks on all new employees, including faculty, prior to their being hired. This policy was completed in spring 2012 and then implemented.

A LiveScan costs $75. The cost is borne by the hiring department just as all hiring costs (travel, advertisements, etc.) are.

**Chancellor’s Office Policy**

The Chancellor’s Office has written a new Background check (Criminal Records check) Policy. They are currently meeting and conferring with the unions on this draft policy.
At the conclusion of these negotiations all campuses will be required to comply with that policy. We have not received a copy of the current version but understand that it will cover all new employees.

**Current CSU Chico Procedure**

Employees are to complete a Background Disclosure Form prior to taking the LiveScan. If they are not truthful on the form, generally they are disqualified from employment.

Prior to making an offer of employment but after applicants have been found to meet the minimum qualifications for the job, departments send the applicant to UPD to conduct a LiveScan. **If the applicant does not live close to Chico, the employee can be sent the criminal record check forms to have the LiveScan done in the area where they live.** Often it takes longer to get the results when they are conducted in another area of the state or out of state. Therefore, some departments send their three finalists for a LiveScan while they are visiting campus. The decision to only LiveScan the applicant the department wants to offer the position or to LiveScan all the final applicants is up to the Department. The final offer of employment is not to be made until the applicant has cleared the criminal records check. Otherwise, if the applicant is not cleared to work at CSU Chico, the applicant may have already left another job and would, therefore, be out of work.

If there is a “finding” (a conviction) on the records, a committee of three reviews the findings. The campus can elect to exclude a candidate from consideration for employment if the criminal conduct is job related and the exclusion is consistent with business necessity. The applicant is told that he or she may be excluded from consideration for employment because of past criminal conduct, and is provided with the information that informs the campus’s decision. The applicant is invited to submit information to respond to the criminal background findings, if they wish, to support a decision by the campus to go forward with an offer. The committee then conducts an individualized assessment to determine if the specific facts warrant not hiring the applicant.

There have been findings on faculty applicants. In one case the applicant had a series of convictions. After taking the LiveScan the employee withdrew the application.
Procedures on Other Campuses

Currently some campuses do Criminal Records Checks for faculty applicants. A review of job postings indicates that six campuses do a criminal records check on all faculty applicants and another six conduct criminal records checks for positions designated “sensitive.” There is no uniform definition for what constitutes “sensitive.”

Can the results from a Livescan be sent to the departments?

The results of the LiveScans are confidential. The law forbids the campus from sharing this information with those not explicitly designated to have this information (such as HR personnel, the background check coordinator, and others on a “need to know” basis). If a person has convictions in the past but has rehabilitated, then that person is entitled to keep history private. Hiring departments are told that an applicant cleared or did not clear. In order to prevent management from being prejudiced against an applicant whose conviction does not disqualify the applicant (e.g., the conviction was many years ago and the applicant has a long, successful work career since then), the β

Related Executive Order: