I. Policy

A. In an effort to provide the safest possible environment for our campus community, in compliance with section 703(d) and 707(b) of Title 11 Division 1 of the California Code of Regulations, the CLETS Policies, Practices and Procedures and in order to maintain access to the California Law Enforcement Telecommunications System (CLETS), CSU Chico shall conduct criminal records checks on applicants and employees who apply for positions requiring access to CLETS computers, equipment or information. This includes any work done on applicable equipment, systems design, programming, and operating procedures associated with the development, implementation or operation of any computerized message-switching or database systems.

B. Policy Scope

1. The criminal records check will be conducted via LiveScan.

2. A. This policy applies to all employees whose positions will require the employee to have access to CLETS computers, equipment or information. Applicants who are not currently employed by CSU Chico will be processed under the campus’ Criminal Background Verification Policy and Procedure. Positions that currently have this access include:

   a. Analyst/Programmers, Operating System Analyst, Information Technology Consultant, Network Analysts, and Operations Specialist, located in BITS, ESYS, and NOPS;

B. Though employees of the Department of Public Safety are covered under a separate recruitment program (including California Peace Officer Standards and Training) and different background checking requirements apply, employees of the Department of Public Safety shall be governed by the appeal procedure in Section V.
II. Procedure - Responsible Parties

A. Department

1. Notifies Human Resources Services Center that an employee will be given an assignment requiring access to CLETS computers, equipment, or information and will need a criminal records check conducted.

2. Notifies HRSC and UPD within five days of an employee leaving a CLETS access position.

3. The cost of the LiveScan will be borne by the employee’s department.

B. University Police Department


2. Notifies the Human Resources Service Center when there is a felony conviction that disqualifies an employee from CLETS access, or when it is revealed that the employee appears to be a fugitive or has an arrest history without conviction for a felony.

3. Provides information to employees about his/her right to obtain a copy of the Live Scan, and the appeal procedures described in this policy.

4. The University Police Department (UPD) shall securely store all LiveScan results and committee actions. LiveScan Results are confidential and can only be shared on a need to know basis.

5. Within five days of receiving notification that an employees is no longer in a CLETS access position, UPD Provides written notification to employees confirming that their LiveScan is no longer monitored.

C. Human Resources Service Center

1. Human Resources Service Center convenes the Background Verification Committee when it is revealed that the employee has a felony conviction, appears to be a fugitive or has an arrest history without conviction for a felony

2. Maintains confidentiality of criminal record check information.

3. Notifies the employee’s department when an employee may not have access to CLETS computer, equipment or information.
4. Provides feedback to employees whenever it is revealed that the employee has a felony conviction, appears to be a fugitive or has an arrest history without conviction for a felony and the Background Committee disqualifies an employee from the assignment. Such notice will be sent within 10 working days of the decision not to hire or assign duties based on the results.

D. Background Verification Committee

1. Is convened when the LiveScan results reveal that the employee has a felony, appears to be a fugitive, or has an arrest history without conviction for a felony.

2. This Committee shall be comprised of at least two of the following people, as appropriate:
   
   Assistant Vice President of Human Resources
   Campus Risk Manager
   Campus Chief of Police
   Director of Labor Relations

3. Is charged with the responsibility of determining whether candidates that, through the LiveScan results appear to be fugitives or have arrest histories without a conviction for a felony can be assigned job duties that require access to CLETS computers, equipment, or information.

III. LiveScan Procedure

A. Release Form - The employee shall be provided a release form for the criminal background check to sign and return prior to the initiation of the check. Said release will also contain the procedure an employee may use to challenge the accuracy of a background check report.

B. Current employees have the option of agreeing to a LiveScan or opting out of the LiveScan process. An employee electing to opt out of the LiveScan will be disqualified from duties or positions that involve access to CLETS computers, equipment or information. Current employees can elect not to apply for positions that involve access to CLETS.
IV. Procedure - LiveScan Report Findings

A. If LiveScan reports reveal a felony conviction or that a person appears to be a fugitive, or has an arrest record history without conviction for a felony, the University Police Department will call the Human Resources Services Center and report the findings. The Human Resources Service Center will schedule a meeting of the Background Verification Committee to review results which reveal that the candidate appears to be a fugitive or has an arrest history without conviction for a felony.

B. The Committee decisions shall be based primarily on the following factors that include:

- Seriousness of the crime (felony/misdemeanor);
- The type of crime (theft, violence, etc.);
- The relationship between the job duties and the crime;
- The age of the candidate when the crime occurred;
- The number of years since the crime occurred;
- The number of criminal convictions;
- Whether or not the candidate revealed the conviction on the employment application.
- Whether the matter has been expunged; and
- Length of employment at CSU Chico.

If the current employee had revealed the conviction on the employment application, no disciplinary action shall be taken.

C. If LiveScan reveals a conviction, the candidate may be disqualified from the assignment involving CLETS computers, equipment or information, depending on the totality of the information.

D. These guidelines do not automatically exclude an employee with convictions from employment.

E. If it is proposed that a current employee be assigned duties involving access to CLETS information or systems, and the results of the LiveScan preclude a current employee from being assigned those duties, the University shall notify the employee and the Department and reassign the employee to another non-CLETS access position in a classification for which they are qualified, except as provided in subsection G below. The University shall provide adequate and necessary training in this new position.

F. If a current employee applies for a position that involves access to CLETS information or systems, and the results of the fingerprinting and criminal history record check preclude a current employee from hire, transfer,
recategorization, or reassignment of job duties on the campus, the employee will be notified and, except as provided in subsection G below, the results of the fingerprinting and criminal history record check shall have no bearing on the individual’s continued employment in the non-security sensitive position.

G. If the University believes the results of the fingerprinting and criminal history record check impact the employee’s ability to continue in his/her current position or employment on the campus, the University will consider the individual’s suitability for employment or change in job duties after considering the specific duties of the position, the number of offenses and circumstances of each, the period of time since the employee’s last conviction, and whether the offenses were disclosed on the application. Any employment action may only be administered in a manner consistent with the terms of the applicable collective bargaining agreement in accordance with the applicable provisions of the California Education Code.

H. CSU, Chico shall in no way use this information to discriminate on the basis of race, religion, ancestry, color, sex, sexual orientation, gender identity, age, physical disability, mental disability, veteran status, marital status, pregnancy, medical condition and/or national origin.

I. The University recognizes that its need to investigate a candidate’s background must be balanced with the need to protect privacy. University policy and state and federal laws recognize the individual’s right to privacy and prohibit campus employees and others from seeking, using, and disclosing personal information except within the scope of their assigned duties.

J. The candidate (applicant) or employee shall be notified in writing of the procedure to obtain a summary of the background check from the Department of Justice.

V. Appeal Right

A. Appeal of University or Background Verification Committee Decision

Any current employee who is negatively impacted,¹ by a decision of the University or of the Background Verification Committee, shall have a right to appeal the decision of the University and/or Background Verification Committee. The appeal process shall constitute the following:

¹ Negatively impacted includes, but is not limited to: having continued employment with the CSU Chico denied, CLETS access denied or revoked, transfer to another position or classification, verbal or written counseling, written reprimand, any negative document placed in the employee’s personnel file, demotion, suspension or termination.
1. Written notice to the employee of a decision of the University and/or Background Verification Committee that will negatively impact a current employee. The Notice shall advise the employee of the appeal procedure and the timelines to appeal.

2. The employee shall have 5 days from the date of the notice to appeal the decision to the Committee. The appeal will be in writing. The employee may have union representation during this process.

3. The appeal shall be made to either Chico Human Resources (when a University decision) or to the Background Verification Committee.

4. The University and/or Background Verification Committee shall issue a written response to the employee, detailing the reasons why the appeal was denied or accepted and stating the result of the appeal.

B. Appeal of California Department of Justice Information

Candidates or employees who believe the information provided by the LiveScan is erroneous shall be notified of the process by which to appeal to the DOJ.

VI. Systemwide Policies

Should this Policy and Guideline be contradicted by any policy promulgated by the Office of the Chancellor following meet and confer sessions with CSUEU, the policy of the Office of the Chancellor shall govern.