

SOUTHWESTERN LAW SCHOOL

L O S A N G E L E S

Background Check Policy: Employees and Applicants

Administrative policy approved May 20, 2022. Effective immediately.

Revision history: None; new policy.

Related policies: Background Check Policy: Trustees and Trustee-Nominees (in process).

Scheduled Review Date: June 2024 (General Counsel's Office)

A. Purpose and Objective

Southwestern Law School strives to hire and promote the best-qualified individuals for open positions and is committed to providing a safe and secure environment for its community of students, faculty, staff, and visitors. This Policy is intended to support the verification of credentials, criminal history, and other information related to employment decisions that assist Southwestern in meeting this commitment. Southwestern conducts background checks on all applicants for employment following a conditional offer of employment and as a condition of employment. It reserves the right to conduct background checks for coaches and volunteers who intend to travel with students or have extensive interactions with students. Southwestern conducts background checks in compliance with all applicable federal, state, and local laws.

B. Applicability

Background checks will be completed for all applicants conditionally offered a position as a full-time faculty member, adjunct faculty member, visiting faculty member, or full-time or part-time staff member. Background checks may be conducted on any current employee who is offered a promotion or transfer that, in Southwestern's discretion, warrants such a check.

Background checks may include, but are not limited to, national sex offender registry checks; education and degree verification; license verification; reference checks; Department of Motor Vehicle records (if related to the position) checks; national criminal background checks; Social Security Number verifications; verification of employment records; and credit history (only for positions with financial responsibilities).

C. Definitions

1. "National criminal background check" means determining if the applicant or employee has any felony or misdemeanor criminal convictions in the previous seven years in any jurisdiction where the applicant or employee currently resides or has resided in the past. The existence of a criminal conviction does not, by itself, prevent an applicant from being hired or the employee from being promoted or transferred; see Section E of this Policy for further details.
2. "National sex offender registry check" means verifying the applicant or employee does not have convictions of certain sex crimes in the previous seven years in any jurisdiction where the applicant or employee currently resides or has resided in the past.

D. Procedures

1. Background Checks

At a minimum, all applicants offered a position will have a criminal background check and a national sex offender registry check as a condition of employment with Southwestern. Employees offered a promotion or transfer that Southwestern decides warrants a background check will, at a minimum, be subject to a criminal background check and a national sex offender registry check.

Southwestern conducts background checks in compliance with applicable federal, state laws, and local laws, including the Fair Credit Reporting Act, the California Investigative Consumer Reporting Agencies Act, the California Fair Chance Act, and the California Consumer Credit Reporting Agencies Act. Southwestern will provide applicants and employees with appropriate written notice of Southwestern's intention to obtain information by way of a background check and will give each applicant and employee the opportunity to obtain a free copy of any report obtained. Each applicant or employee will be asked to authorize a background check after a conditional offer for hire, transfer, or promotion is made and before the check is performed. If the individual refuses or fails to sign the authorization, any conditional offer for employment, promotion, or transfer will be rescinded, and any current employment with Southwestern may be terminated.

2. Consumer Credit Reports

Southwestern obtains consumer credit reports only for very limited circumstances; for example, when applicants or employees are being considered for an administrative or managerial position in which they will have regular access to banking information, credit card account information, or financial information for Southwestern or Southwestern students, employees, or donors (including dates of birth, Social Security Numbers, and credit or bank account information). When Southwestern needs to obtain a consumer credit report, it will comply with applicable federal, state, and local laws.

3. Background Screening Process

All written offers of employment will include the following statement: "This offer is contingent upon the successful completion of a background check."

Verifications and checks should be completed as soon as possible after a conditional offer of employment to an individual has been extended, unless otherwise noted in the offer letter. Human Resources will work with the applicant or employee directly to complete the background-check process.

4. Process for Handling Information from Background Checks

Background check reports will be obtained and reviewed by a senior member of the Administrative Services Office, who may confidentially review the information with the appropriate members of the senior staff or faculty recruiting committee, Southwestern's legal counsel, or others with a need to know. All information obtained from background or reference checks will be used only to make employment decisions (e.g., hiring, promotion, transfer, or termination); will be maintained confidentially in accordance with applicable legal requirements; and may be reviewed or accessed by only authorized individuals with the approval of the Associate Dean of Operations and Risk Management.

E. Guidelines

An employment offer or offer for transfer or promotion is contingent upon the successful completion and results of the background check. New employees are not permitted to work on campus until the background check process described in this Policy is completed. New employees typically should not begin their new duties until the background check process described in this Policy is completed.

The existence of a criminal conviction does not automatically disqualify an individual from employment, transfer, or promotion; rather, Southwestern will conduct an individualized assessment of the individual's conviction history. Southwestern will consider multiple factors, including, but not limited to:

- the nature, number, and gravity of the conviction(s);
- the amount of time that has elapsed since the offense or completion of sentence;
- the duties and responsibilities of the position sought or held by the individual and the effect of the conviction on the individual's ability to perform these duties;
- the individual's age at the time of the offense; and
- any information provided by the individual regarding rehabilitation or good conduct.

The Fair Chance Act (<https://www.dfeh.ca.gov/fair-chance-act/>) provides specific instructions about fair application of a criminal background check.

All background check processes will be administered by Southwestern's Administrative Services Office or by a reputable third-party reporting agency.

If Southwestern makes a preliminary decision that the applicant's or employee's conviction history disqualifies the individual from employment, promotion, or transfer, Southwestern will notify the applicant or employee of this preliminary decision in writing. That notification will include:

- notice of the disqualifying conviction(s) that are the basis for the preliminary decision to rescind the offer;
- a copy of the conviction history report;
- an explanation of the applicant's or employee's right to respond to the notice of Southwestern's preliminary decision before that decision becomes final; and
- the deadline by which to respond.

The explanation will inform the applicant or employee that the response may include submitting evidence challenging the accuracy of the conviction history report that is the basis for rescinding the offer, evidence of rehabilitation or mitigating circumstances, or both. The applicant or employee will be given at least five business days to respond to this notice before Southwestern makes a final decision. If, within the five business days, the applicant or employee notifies Southwestern in writing that the applicant or employee disputes the accuracy of the conviction history report that was the basis for the preliminary decision to rescind the offer and is taking specific steps to obtain evidence supporting that assertion, then the applicant or employee will have five additional business days to respond to the notice. Southwestern will consider information provided by the applicant or employee before making a final decision.

Any decision to accept or reject an individual is solely in Southwestern's discretion. If an individual is to be denied employment, promotion, or transfer in whole or in part because of information received as part of the background screening process, Southwestern will notify the applicant or employee in writing, in compliance with applicable federal, state, and local laws, and send both a pre-adverse letter and adverse action letter to the applicant or employee, including notice of their right to complain to the Department of Fair Employment and Housing.