

# SOUTHWESTERN

## LAW SCHOOL Los Angeles, CA

### **Background Check Policy: Employees and Applicants**

**Administrative policy approved May 20, 2022.**

**Revision history: Edits made in October 2024.**

**Related policies: Background Check Policy: Trustees and Trustee-Nominees**

**Scheduled Review Date: June 2026 (General Counsel Office)**

#### **A. Purpose and Objective**

Southwestern Law School strives to hire and promote the best-qualified individuals for open positions and to retain valuable employees. Southwestern is also committed to providing a safe and secure environment for its community of students, faculty, staff, and visitors. This policy is intended to support (i) the verification of credentials, criminal history, and other information related to employment and volunteer selection and (ii) Southwestern's compliance with insurance requirements. Southwestern conducts background checks in compliance with all applicable federal, state, and local laws.

#### **B. Applicability**

As a condition of employment, Southwestern will complete background checks 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. Southwestern may conduct background checks on (i) current employees for whom Southwestern did not run a background check at the time of hire or since the time of hire; (ii) any current employee who is offered a promotion or transfer that, in Southwestern's discretion, warrants such a check; (iii) coaches and other volunteers who may travel with or have extensive interactions with students; and (iv) student workers whose work responsibilities warrant 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 (for positions with financial responsibilities).

**C. Definitions**

1. "National criminal background check" means determining if the applicant, employee, or coach/volunteer has any felony or misdemeanor criminal convictions in the previous seven years in any jurisdiction where the applicant, employee, or coach/volunteer currently resides or has resided in the past.
2. "National sex offender registry check" means verifying that the applicant, employee, or coach/volunteer does not have convictions of certain sex crimes in the previous seven years in any jurisdiction where the applicant, employee, or coach/volunteer 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. Current employees for whom Southwestern did not run a background check at the time of hire or since the time of hire, current employees who are offered a promotion or transfer that warrants a background check, coaches and other volunteers who may travel with or have extensive interactions with students, and student workers whose work responsibilities warrant 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, employees, and coaches/volunteers with appropriate written notice of Southwestern's intention to obtain information by way of a background check and will give each applicant, employee, and coach/volunteer the opportunity to obtain a free copy of any report obtained. Each applicant, employee, and coach/volunteer will be asked to authorize a background check before the check is performed.

If an individual refuses or fails to sign the authorization, any conditional offer for employment, promotion, or transfer will be rescinded. If a current employee refuses or fails to sign the authorization, Southwestern may take disciplinary or other appropriate action in accordance with procedures outlined in relevant handbooks, policies, or contracts. If a coach/volunteer refuses to sign the authorization, they will not be eligible to volunteer.

**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." A similar statement will be included in the information provided to coaches/volunteers. Verifications and checks should be completed as soon as possible after a conditional offer of employment has been extended to an individual unless otherwise noted in the offer letter. Human Resources will work with the applicant, employee, and coach/volunteer 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 discipline) or decisions to work with coaches/volunteers; 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 Chief Operating Officer.

## **E. Guidelines**

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

The results of the background check, when considered with a current employee's position, the context and seriousness of the results, whether the reported offense violates school policies, and any other relevant information may result in disciplinary or other appropriate action in accordance with procedures outlined in relevant handbooks, policies, or contracts. Disciplinary action can include but is not limited to, written warnings, probation, suspension, and termination of employment.

Background checks on coaches/volunteers may result in Southwestern refusing to allow the individual to serve as a coach/volunteer.

All background check processes will be administered by Southwestern's Administrative

Services Office or by a reputable third-party reporting agency.

## **F. Criminal Convictions**

The Fair Chance Act (<https://www.dfeh.ca.gov/fair-chance-act/>) provides specific instructions about the fair application of a criminal background check to applicants for employment, including student workers and current employees seeking transfer or promotion. While not required, Southwestern will follow the processes set forth in the Fair Chance Act, as summarized in this Section F, with other current employees (including current student workers) after receiving information from a criminal background check. These processes do not apply to non-employee coaches and other volunteers.

The existence of a criminal conviction does not automatically disqualify an individual from employment, transfer, or promotion, nor does it automatically mean that a current employee will face disciplinary action; 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 (e.g., whether the harm was to people or property), number, and gravity (e.g., degree and permanence of the harm) of the conviction(s);
- the amount of time that has elapsed since the offense or completion of sentence;
- the context in which the offense occurred;
- the specific personal conduct of the individual that resulted in the conviction;
- whether disabilities (including past drug addiction or mental impairment) or trauma (e.g., domestic or dating violence, stalking, duress or other similar factors) contributed to the offense;
- 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.

If Southwestern makes a preliminary decision that the applicant's or employee's conviction history disqualifies the individual from employment, promotion, or transfer or may cause a current employee to face disciplinary action, 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 or discipline the employee;
- 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 or disciplinary action and evidence of rehabilitation or mitigating circumstances. 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 or disciplinary action 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 at Southwestern's discretion. If an individual is to be denied employment, promotion, or transfer or an employee is to face disciplinary action in whole or in part or 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 Civil Rights Department.

**G. Policy Revisions**

Southwestern reserves the right to change or modify any aspect of this policy, with or without prior notice.