

SOUTHWESTERN

LAW SCHOOL Los Angeles, CA

Background Check Policy: Employees and Applicants

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

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Table of Contents

- A. Purpose and Objective**
- B. Applicability**
- C. Definitions**
- D. Procedures**
- E. Guidelines**
- F. Criminal Convictions**
- G. Policy Revisions**

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 applicable, legal, regulatory, and 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 consumer credit reports (for certain positions when permitted by applicable law).

C. Definitions

1. "National criminal background check" means a criminal history search conducted through one or more reporting services or databases, with the scope determined by the reporting service utilized and applicable law.
2. "National sex offender registry check" means a search of available sex offender registry information, with the scope determined by the reporting service utilized and applicable law.

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, 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.

Background checks for applicants or employees who work outside California will be conducted in accordance with the law of the applicable work location and any other applicable jurisdiction. Supporting notices, authorizations, and procedures may vary accordingly.

Southwestern will not request, consider, distribute, or rely upon categories of criminal history information that applicable federal, state, or local law prohibits employers from obtaining or using in employment decisions.

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 in limited circumstances and only when the position qualifies for such a report under applicable federal, state, and local law; for example, when applicants or employees are being considered for positions involving significant financial responsibilities or regular access to banking information, credit card account information, or sensitive financial or personal information relating to Southwestern or its students, employees, or donors (e.g., dates of birth, Social Security Numbers, and credit or bank account information). Any required notices regarding consumer credit reports will be provided in accordance with applicable legal requirements.

3. Background screening process

All written offers of employment will include the following statement: "This offer is contingent upon completion of the required background check and Southwestern's review and evaluation of the results in accordance with this policy and applicable law." 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 legitimate business 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. Background screening materials will be maintained, retained, accessed, and securely destroyed in accordance with applicable law and Southwestern's records management and information security requirements.

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 completion of the required background check and Southwestern's review and evaluation of the results in accordance with this policy and applicable law. 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 [California Fair Chance Act](https://calcivilrights.ca.gov/fair-chance-act/) (https://calcivilrights.ca.gov/fair-chance-act/) and other applicable laws establish requirements governing the use of criminal history information in employment decisions. Southwestern will administer criminal background checks and related employment decisions in accordance with applicable federal, state, and local law, including any Fair Chance Act requirements applicable to applicants or employees. 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 employment or disciplinary decision resulting from the background screening process will be made in accordance with this policy and applicable law. If information obtained through the background screening process may result in denial of employment, promotion, transfer, or other adverse employment action, Southwestern will provide any notices, reports, response opportunities, and final adverse action notices required by applicable federal, state, or local law before making a final decision, including any notice of rights required by applicable law.

G. Policy Revisions

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