PPSM-21: Selection and Appointment

Responsible Officer:	Vice President – Systemwide Human Resources
Responsible Office:	SHR – Systemwide Human Resources
Issuance Date:	8/3/2026
Effective Date:	8/3/2026
Scope:	Professional & Support Staff, Managers & Senior Professionals, and Senior Management Group (SMG) members, except for Sections III.A through III.B, which do not apply to SMG members

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I. POLICY SUMMARY

This policy describes the process for selecting and appointing candidates for employment, including background checks, reference checks, and employment eligibility verification, as well as the employment of near relatives.

II. DEFINITIONS

Detailed information about common terms used within Personnel Policies for Staff Members (PPSM) can be found in PPSM-2 (Definition of Terms).

Applicant: An individual who expresses interest for a specific open position by submitting an employment application or similar documentation via the established application process.

Background Check: The process of gathering and reviewing a candidate's records to

determine their applicability to initial or ongoing employment. A background check may encompass a variety of verifications including, but not limited to: employment history, criminal history, national sex offender search, education, credit history, driving history, credentials, or professional licenses report.

Broad Pool: A group of applicants who represent a variety of backgrounds, perspectives, and experiences. The pool is developed and evaluated in accordance with established nondiscrimination and equal employment opportunity practices and procedures consistent with University policies, and applicable Federal and State laws (refer to UC Anti-Discrimination Policy).

Candidate/Qualified Candidate: An individual who meets all the minimum required qualifications stated in the position description for the position for which they applied.

Consumer Reporting Agency: A third-party vendor that collects information about a candidate from various sources and compiles a report used for employment purposes.

Credit History Background Check: The process of gathering and reviewing a candidate's comprehensive credit history.

Criminal Record History Background Check: The process of gathering and reviewing a candidate's criminal record history, including any felony or misdemeanor convictions.

Education Verification: The confirmation that a candidate possesses the degree(s) from a verifiable institution, as listed on the employment application, resume, cover letter or other documentation provided by the candidate.

Employment Verification: The confirmation that a candidate's employment history as listed on the employment application, resume, cover letter or other documentation provided by the candidate is accurate.

Final Administrative Decision: The written determination of substantiated allegations as to whether employment Misconduct occurred as determined by the decisionmaker following the final investigative report and any subsequent hearing or resolution; including any discipline or appeals process.

Final Judicial Decision: A final determination of a matter submitted to a court that is recorded in a judgement or order of that court.

Fingerprinting: The method used to review a candidate's criminal record, including state and nationwide check, based on the candidate's fingerprints.

Former Employee: An individual who was previously employed by the University in a staff or student staff employee appointment and is no longer actively employed by the University.

Government Security Clearance: The determination that a candidate is eligible for access to classified information.

Internal Candidate: A candidate who is currently employed at the University in any appointment type except student staff employee appointments.

Misconduct: Any violation of the policies governing employee conduct at the applicant's previous place of employment, including, but not limited to, violations of policies prohibiting sexual harassment, sexual assault, or other forms of harassment or discrimination, as defined by the employer.

Motor Vehicle Report (MVR): A report issued by the Department of Motor Vehicles, which details the driving record, by individual name(s) and driver license number(s), for each request submitted and indicates the status of the applicable driver's licenses.

Near Relative: An employee's relationship by blood, adoption, marriage, or domestic partnership including: spouse; domestic partner; parent; child; sibling; aunt/uncle; niece/nephew; first cousin and in-laws or step-relatives in one of these relationships, including relatives of an employee's domestic partner in one of the relationships listed above; or other persons for whom the employee is legally responsible.

Officer of Inspector General (OIG) Exclusion List: A list of individuals and entities excluded from participating in federally funded health care programs.

Position: A specific set of duties, responsibilities, knowledge, skills, level of supervision, and other requirements which are based on a job and that comprise the work assignment of an individual employee at a particular location.

Preponderance of Evidence: A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.

Professional Licensing/Credential Verification: The confirmation that a candidate possesses all professional licenses/credentials as listed on the employment application, resume, cover letter or other documentation provided by the candidate.

Reference Check: The process of obtaining information about a candidate's qualifications, performance, work experience, and conduct with previous employers, colleagues, clients or other professional contacts.

Substantiated Allegation: An allegation that has been sustained based upon a burden of proof of at least a preponderance of the evidence.

Student Staff Employee: A student, as defined by PACAOS Section 14.40(a), employed at the University in a staff non-represented, casual/restricted appointment.

III. POLICY TEXT

A. Selection

It is the policy of the University to select and hire, in its judgment, the candidate who meets minimum required qualifications and may possess any preferred qualifications stated in the position description to best perform the duties and responsibilities of the position.

Selection criteria, including experience, education, knowledge and other qualifications, must be job-related and based on the position description. Selection criteria must be applied equally and consistently to all applicants. The University is generally prohibited, consistent with applicable law, from asking an applicant to disclose prior conviction

information on the initial job application. The information will be requested once the applicant has been identified as the final candidate and has received a conditional offer of employment in a critical position.

In accordance with PPSM-20 (Recruitment and Promotion), locations are responsible for demonstrating good faith efforts to obtain a broad and qualified applicant pool.

University retirees may be reemployed in accordance with the UC Policy on Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions.

Special employment considerations must be given as follows:

- An employee who was indefinitely laid off and who did not receive severance has preference for reemployment under PPSM-60 (Layoff and Reduction in Time from Professional & Support Staff Career Positions);
- A former employee who was medically separated and is eligible for special reappointment in accordance with PPSM-66 (Medical Separation); or
- A current employee who becomes disabled and is eligible for reassignment in accordance with PPSM-81 (Reasonable Accommodation)

A record of the selection process must be maintained for reporting and auditing purposes, per local procedures and the University of California Records Retention Schedule. The record should consist of all materials relevant to the selection process.

The University will not request or rely on an applicant or candidate's salary history in determining salary or whether to offer employment. The University will include the pay scale in all job postings and will provide the salary range to applicants upon request. The University also will provide the salary range for the position in which an employee is currently employed. Refer to Question 3 of Section VII of PPSM-30 (Compensation) for more information on how an employee can find their current position salary range.

B. Employee Release Time for UC Interviews

With advance notice and if the interview occurs during the employee's normal work hours, an employee must be granted reasonable time off with pay to interview for a position at:

- The employee's current UC location; or
- Another UC location, for a length of time equal to the time required for an interview at the employee's current UC location.

C. Reference Checks

Prior to making an offer of employment, it is recommended that a minimum of two individual reference checks be conducted on all candidates recommended for hire, including current UC employees. Reference checks provide an opportunity to obtain information about the candidate's skills, qualifications and behavior that are important to the hiring manager's decision. The candidate may be notified prior to conducting the reference checks. Individuals with knowledge of the candidate's employment performance, qualifications, and behavior should be contacted; however, the candidate may request that the current supervisor not be contacted.

As a public employer, the University is covered by the provisions of the California Information Practices Act of 1977. In most situations, the Act requires that information obtained from a reference check, including the source of the information, may not be withheld from the candidate and is to be released to the candidate upon request.

D. Background Checks

1. General

The University is committed to providing a safe and secure environment for its staff, faculty, students, and others in the University community; protecting its property and assets; and upholding the reputation and integrity of the University.

To support these efforts and to minimize the risk to the University, a background check is required after the candidate has received a conditional offer of employment in a critical position. Candidates hired into critical positions have sensitive administrative/programmatic/managerial duties and responsibilities that could potentially cause human, financial or property loss or other significant risk to the University. The Chancellor will designate certain positions as "critical" in accordance with Section V of this policy, except that all UC Health Medical Center and Student Health Center positions are considered critical. Generally, Senior Management Group (SMG) positions are designated as critical. An offer of employment, oral or written, must be contingent upon completion of a satisfactory pre-employment background check. The background check process should be initiated only after a conditional offer of employment has been extended to the candidate.

Prior to making a conditional offer of employment, locations must not consider an applicant's criminal history, including through questions in an employment application or internet searches. If an applicant voluntarily raises their criminal history prior to receiving a conditional offer, the University may not consider this or any other conviction history information until after making a conditional offer of employment, unless the position is with a criminal justice agency (as defined in Section 13101 of the Penal Code), if the position is as a Farm Labor Contractor (as described in Section 1685 of the Labor Code), or the position is one that the University or University's agent is required by any state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history.

The background check must only be used for evaluating the candidate for employment and cannot be used for discriminatory or retaliatory reasons as prohibited by state and federal law and University policies. This policy is applicable to external and internal candidates, including University employees under consideration for a promotion or when a University employee is subject to a background check due to a change in University policies or practices related to specific positions.

Prior to conducting a background check, locations must ensure that appropriate disclosures are made to, and consent forms are obtained from, the candidate as required by applicable state and/or federal law. If a credit history background check

must be conducted, the disclosure must state the specific basis for obtaining the report. If the candidate does not consent to a background check, they will be eliminated from further consideration for the position. If a candidate is found to have provided false or misleading information or omitted information, the employment offer may be rescinded, and if the candidate is a current University employee, they may be subject to corrective action, up to and including termination of employment.

If a current employee is hired into a critical position, a background check must be completed prior to the start of the new position. Continued employment with the University may be contingent upon a satisfactory background check. If a satisfactory background check has been completed within the past six months, a current employee will generally not need to undergo another background check unless the position requires an additional background check(s).

Depending on the nature of the position, employees may be subject to periodic job-related background checks, as deemed necessary by the department in consultation with the local Human Resources office. Any periodic background check conducted must be applied in a consistent manner, in terms of type of checks and frequency, for employees doing the same or similar jobs.

Former employees, including retirees, who are rehired into critical positions, must also be subject to a background check if they have never had a background check completed by the University. In addition, those who are rehired into critical positions after a break in service of more than six months must also be subject to a background check.

2. Types of Background Checks

The University conducts background checks that use different methods to obtain information about a candidate's personal and employment data. At a minimum, a candidate who has received a conditional offer of employment into a critical position is required to undergo a criminal history background check as a condition of employment.

Depending on the nature of the position and in accordance with local procedures, additional background checks may be required and could include any or all of the following:

- Employment verification;
- Education verification;
- Credit history check (Refer to Section V for additional information);
- Motor vehicle report;
- Professional licenses/credentials verification;
- Government security clearance; and
- Office of Inspector General (OIG) exclusion list.

The Chancellor or designee will determine which positions require a medical examination. A candidate hired in such a position is required to complete the medical examination only after the offer of employment is made and prior to the start of employment. Employment is contingent upon successful completion of the medical examination. The University must pay for the cost of the medical examination.

Candidates for employment and employees cannot be required to take a polygraph test as a condition of employment, with the exception of peace officer candidates, who may be required to submit to a polygraph examination in accordance with The Universitywide Police Policies and Administrative Procedures.

Depending on the nature of the position, a candidate may be subject to a job- related drug test. Employment in those positions is contingent upon successful completion of a drug test.

3. Reviewing and Assessing the Background Check

If the background check does not contain information that would disqualify the candidate's employment, the hiring process may proceed.

If the background check contains any conflicting or potentially disqualifying information, the candidate will not automatically be disqualified from employment. The local Human Resources office should consult with local legal counsel, as necessary, to determine the appropriate course of action.

Before taking any adverse action the University must provide the candidate with a pre-adverse action notice, including a copy of the background check report, and a copy of all required notifications pursuant to the Fair Credit Reporting Act (FCRA), if applicable. As explained in more detail later, the candidate must have five business days from receipt of pre-adverse action notice, or longer if specified in local procedures, to respond to any negative findings in the report by providing supplementary documentation or information. If the candidate does not respond, the local Human Resources office may make a final determination, based on the information available, as to whether the candidate is still eligible to hold the position.

If the candidate responds, the local Human Resources office must review the information provided and make a final determination as to whether the candidate is still eligible to hold the position.

a. Initial Individualized Assessment

If the background check contains a criminal conviction or other potentially disqualifying information, the local Human Resources office must conduct an initial individualized assessment. The initial individualized assessment must be a reasoned, evidence-based determination of whether the applicant's conviction history has a direct and adverse relationship with specific job duties such that the University is justified in denying the candidate the position. A candidate's possession of a benefit, privilege, or right required for the

performance of a job by a licensing, regulatory, or government agency or board is probative of the candidate's conviction history not being directly or adversely related to the specific duties of that job.

A criminal conviction will not automatically disqualify a candidate from employment. The initial individualized assessment must include, at a minimum, consideration of the following factors:

- The nature and gravity of the offense(s), including the candidate's specific personal conduct that resulted in conviction, whether the harm was to people or property and the degree and/or permanence of the harm;
- The length of time that has passed since the offense(s) occurred and/or completion of the sentence, as well as the candidate's age at the time of the offense;
- The nature of the position applied for, including its specific duties, the circumstances under which and the environment in which the duties must be performed (i.e., whether the position offers the opportunity for the same or a similar offense to occur), and/or whether the type or degree of harm that resulted from the conviction is likely to occur in the workplace;
- Whether factors such as trauma, domestic violence, sexual assault, stalking, human trafficking, duress, or other similar factors contributed to the offense or conduct; and
- Whether a disability (such as past drug addiction or mental impairment) contributed to the offense, and if so, whether a reasonable accommodation or treatment could or has mitigated or eliminated the likelihood of harm arising from similar conduct.

To the extent that any evidence of rehabilitation or mitigating circumstances, is voluntarily provided by the candidate or by another party at the candidate's request, before or during the initial individualized assessment, that evidence must be considered as part of the initial individualized assessment. In doing so, the University may consider, but is not limited to considering, the factors as set forth above as they relate to the evidence of rehabilitation or mitigating circumstances.

After the individualized assessment is complete, the local Human Resources office must make a preliminary decision as to whether the candidate is still eligible to hold the position. If it is determined the candidate is eligible to hold the position, the hiring process may proceed.

b. Notice of Preliminary Decision of Adverse Action

Before taking any adverse action, the candidate will be given notice of the preliminary decision that the candidate's conviction history disqualifies the candidate from employment.

The notice must include the following:

- Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer;
- A copy of the conviction history report, if any; and
- An explanation of the candidate's right to respond to the notice of the University's preliminary decision before the decision becomes final and the deadline by which to respond. The explanation shall inform the candidate that the response may include submission of evidence challenging the accuracy of the conviction history report that is the basis for the preliminary decision to rescind the offer or evidence of rehabilitation or mitigating circumstances.

Any such evidence of rehabilitation or mitigating circumstances is optional and may only be voluntarily provided by the applicant or by another party at the candidate's request.

Evidence of mitigation or rehabilitation may include, but is not limited to:

- Length and consistency of employment history before and after the offense or conduct;
- Facts or circumstances surrounding the offense or conduct including the candidate's age at the time, likelihood that similar conduct will recur, whether factors such as trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, or similar factors contributed, or whether a disability (such as past drug addiction or mental impairment) contributed and if so, whether a reasonable accommodation or treatment has mitigated or eliminated the likelihood of harm arising from similar conduct;
- Evidence showing compliance with terms and conditions of probation or parole;
- Whether the candidate is bonded under a federal, state, or local bonding program; and
- Any other evidence of mitigation or rehabilitation and present fitness provided, such as letters of reference, certificates or other documentation of enrollment in or completion of an education, vocational, training, counseling, community service, or rehabilitation program (including in-custody programs), documentation confirming the existence of a disability and/or the candidate's status as a survivor of domestic or dating violence, sexual assault, stalking, or comparable offenses.

The University must not:

- Refuse to accept additional evidence voluntarily provided by a candidate,

or by another party at the candidate's request, at any stage of the hiring process (including prior to making a preliminary decision to rescind the candidate's job offer);

- Require a candidate to submit any of the additional evidence described in this subsection at any time in the hiring process;
- Require a candidate to provide a specific type of documentary evidence (e.g., a police report as evidence of domestic or dating violence), or disqualify a candidate from the employment conditionally offered for failing to provide and specific type of documents or other evidence;
- Require a candidate to disclose their status as a survivor of domestic or dating violence, sexual assault, stalking, or comparable statuses; and/or
- Require a candidate to produce medical records and/or disclose the existence of a disability or diagnosis.

If the candidate does not respond, the local Human Resources office may make a final determination, based on the information available, as to whether the candidate is still eligible to hold the position.

The candidate will have at least five business days from the date of the receipt of notice, or longer if specific in local procedures, to respond to the evaluation by providing supplementary documentation or information showing that the conviction information is factually inaccurate. If notice is transmitted through a format that does not provide a confirmation of receipt, such as a written notice mailed by an employer without tracking delivery enabled, the notice shall be deemed received five calendar days after the mailing is deposited for delivery for California addresses, ten calendar days after the mailing for addresses outside of California, and twenty calendar days after mailing for addresses outside of the United States. If notice is transmitted through email, the notice shall be deemed received two business days after it is sent.

If the candidate timely responds to the University in writing that the candidate disputes the accuracy of the conviction history report that was the basis for the preliminary decision to rescind the offer and that the candidate is taking specific steps to obtain evidence supporting the assertion, then the candidate shall have at least five additional business days to respond to the notice. The University shall consider the information submitted by the candidate before making a final decision.

c. Reassessment

The University shall consider any information submitted by the candidate before making a final decision regarding whether or not to rescind the conditional offer of employment. When considering evidence of rehabilitation or mitigating circumstances provided by the applicant, or by another party at the

candidate's request, the employer may consider, but is not limited to, the following factors, as applicable:

- When the conviction led to incarceration, the candidate's conduct during incarceration, including participation in work and educational or rehabilitative programming and other prosocial conduct;
- The candidate's employment history since the conviction or completion of sentence;
- The candidate's community service and engagement since the conviction or completion of sentence, including but not limited to volunteer work for a community organization, engagement with a religious group or organization, participation in a support or recovery group, and other types of civic participation; and/or
- The candidate's other rehabilitative efforts since the completion of sentence or conviction or mitigating factors not captured in the above subfactors.

d. Final Decision of Adverse Action

If the University makes a final decision to deny the candidate's employment solely or in part because of the candidate's prior conviction history of a crime, the University must notify the candidate in writing of all the following:

- The final denial or disqualification. The University may, but is not required to, justify or explain the University's reasoning for making the final denial or disqualification;
- Any existing procedure the University has to challenge the decision or request reconsideration; and
- The right to file a complaint with the California Civil Rights Department.

If it is determined a candidate is disqualified, the University must take adverse action against the candidate. The local Human Resources office should consult with local legal counsel, as necessary.

If the background check was completed through a third-party vendor, the University must provide the candidate with an adverse action notice, which must include the following:

- The contact information of the vendor Consumer Report Agency (CRA) that completed the background check;
- A statement that the CRA supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- The candidate's rights to dispute any discrepancies or inaccuracies in the background check results with the CRA and to get an additional free report

from the reporting company within 60 days.

E. Staff Employment Misconduct Disclosure

As a condition of employment for any position, all: (1) final candidates for staff and student staff positions, including former UC employees who accept a conditional offer of employment; and (2) all volunteers in an athletic department; are required to disclose whether they are subject to any Final Administrative or Judicial Decision(s) within the last seven years that determined that they committed Misconduct. Final candidates and volunteers in an athletic department must also be permitted to disclose if they have filed an appeal with a court.

1. **Candidate Completion of Staff Employment Misconduct Questionnaire**

   After the candidate has accepted a conditional offer of employment or a volunteer assignment, the candidate is required to complete a Staff Employment Misconduct Disclosure Questionnaire. This Questionnaire requires disclosure of any administrative or judicial decisions issued within the last seven years (from the date of submission of an employment application) that determined that the proposed hire committed Misconduct.

   Completion of the questionnaire is not required if either of the following conditions apply:

   - An internal candidate/volunteer or current staff, student staff employee, or volunteer in athletic department accepts an offer of employment for any position at the same UC employment location where they are currently employed; or
   - A former UC employee or athletic department volunteer who successfully completed a previous Staff Employment Misconduct Questionnaire within the last six months accepts an offer of employment at the same UC location from which they separated, and has not held any employment since the UC separation date

2. **Final Candidate Authorization of Information Release Form**

   The following are required to sign a release form authorizing the release of information by the final candidate's previous employer(s) to the University concerning any Substantiated Allegations of Misconduct in order to permit the University to evaluate the released information with respect to the criteria for potential employment:

   - Final candidates for Athletic Head Coach, Athletic Assistant Coach, Athletic Trainer, Supervising Athletic Trainer staff positions; or volunteers in an athletic department
   - Any final candidate that discloses Final Administrative Decision(s) of Misconduct on the Staff Employment Misconduct Questionnaire

3. **Contacting Previous Employer to Obtain Misconduct Information**

   The local central or decentral Human Resources department is required to use the signed release form to engage in a reasonable attempt to obtain any employee Misconduct information, excluding any protected or confidential information that is not directly related to any employee Misconduct, from the previous employer for final

candidates that accept a conditional offer of employment for Athletic Head Coach, Athletic Assistant Coach, Athletic Trainer, Supervising Athletic Trainer staff positions, and volunteers in an athletic department.

For all final candidates that disclose in the Staff Employment Misconduct Questionnaire any Final Administrative of Judicial Decision(s) that determined that they committed Misconduct, the local central or decentral Human Resources department may use the signed release form, as needed, to obtain information from the previous employer.

If a previous employer discloses findings of Misconduct, the local central or decentral Human Resources department must notify the final candidate and allow at least five business days, or longer if required by local procedure, for the candidate to respond with documentation or information correcting any factual inaccuracies.

4. **UC Personnel File and UC Allegations of Misconduct Review**

The local central or decentral Human Resources department must conduct a UC Personnel File Review and a UC Allegations of Misconduct Review, as applicable, in coordination with the candidate's current or former UC location and relevant compliance offices (e.g., Title IX, Civil Rights, Equal Employment Opportunity offices).

a. UC Personnel File Review

A UC Personnel File Review is required for current and former UC employees and athletic department volunteers. This review must be conducted only for candidates who meet minimum qualifications and must be completed prior to an offer of employment. The review includes:

- Verification of position(s) held and date(s) of employment, following local procedures; and
- Review employment related records related to employee performance that may include: special recognition and merit records, discipline including counseling memos, completed trainings required to maintain employment, promotions, demotions, transfers, reclassifications, resignations, discharges, and retirements.

A UC Personnel File Review is not required for current or former student staff employees unless:

- A current or former student staff employee discloses misconduct at a UC location in the Staff Employment Misconduct Questionnaire; or
- A current or former student staff employee has allegations of misconduct identified through the UC Allegations of Misconduct Review

When a UC Personnel File Review is required for a student staff employee, the review will, at minimum, be limited in scope to the specific department where the student worked at the time of the substantiated or alleged Misconduct.

UC Allegations of Misconduct Review

This review is required for internal candidates, including student staff employees, former UC employees, and athletic department volunteers. This review may only be conducted after an offer of employment or athletic volunteer assignment has been accepted by the candidate.

The review includes any notice of allegation(s) if the internal candidate is currently the subject of any administrative or disciplinary proceeding involving Misconduct (i.e., informal resolution, alternative resolution, investigation, hearing).

5. **Determining Hiring Eligibility**

a. The local central or decentral Human Resources department makes a final hiring decision to proceed with the hiring process if all of the following are met:

- The final candidate did not disclose employment Misconduct on the Staff Employment Misconduct Questionnaire.
- Previous employer(s) did not provide (for positions identified in Section III.E.2) affirmative responses that the candidate committed Misconduct.
- For current and former UC employees and athletic department volunteers, if UC personnel file records are satisfactory and there are no notices of UC allegations where the candidate is currently the subject of any administrative or disciplinary processing involving Misconduct (i.e., informal resolution, alternative resolution, investigation, hearing).

b. The local central Human Resources department is required to make a preliminary hiring eligibility decision if any of the following are disclosed or identified:

- Misconduct is disclosed that would have violated UC policy (factor “a.” in the list below).
- Previous employer provided (for positions identified in Section III.E.2) affirmative responses that the candidate committed Misconduct. The candidate will not automatically be disqualified from employment. The local central Human Resources department reviews all received information, excluding any protected or confidential information that is not directly related to any employment Misconduct.
- For current and former UC employees and athletic department volunteers, UC personnel file records are unsatisfactory or there are notices of UC allegations where the candidate is currently the subject of any administrative or disciplinary proceeding involving Misconduct (i.e., informal resolution, alternative resolution, investigation, hearing).

The local central Human Resources department will use, but is not limited to considering, the following factors to make a preliminary hiring eligibility decision for the position:

a. The nature and severity of the Misconduct at issue, including whether the

same conduct occurring in the UC community would have violated UC policy and what discipline would have been issued;

b. When and under what circumstances the conduct occurred;

c. Whether the conduct involved an abuse of power or authority, such as involvement of subordinate employees, students, or minors;

d. The nature of the position for which the candidate is being considered;

e. The candidate's subsequent conduct and work history;

f. Evidence of rehabilitation;

g. Evidence of completion of sanction and discipline;

h. Criminal history information, if obtained and evaluated using legally required steps per Section III.D.3; and

i. Candidate-provided documentation correcting any factual inaccuracies about the Misconduct information received from a prior employer per Section III.E.3.

If the preliminary hiring eligibility decision is to move forward with the hire, the decision becomes final and the hiring process may proceed.

If the preliminary hiring eligibility decision is to not move forward with the hire, the local central Human Resources department is required to conduct additional consultation and review with Legal Counsel, Title IX, Civil Rights, Equal Employment Opportunity Offices, and other appropriate compliance offices prior to making a final hiring eligibility decision.

If the Misconduct disclosure was completed through a third-party vendor, the University must provide the candidate with an adverse action notice, which must include the following:

- The contact information of the vendor Consumer Reporting Agency (CRA) that completed the Employment Misconduct Disclosure;
- A statement that the CRA supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- The candidate's rights to dispute any discrepancies or inaccuracies in the employment Misconduct disclosure results with the CRA and to get an additional free report from the reporting company within 60 days.

F. Background Check and Staff Employment Misconduct Disclosure Records

In order to protect a candidate's privacy, all information received in connection with the background check and Staff Employment Misconduct Disclosure processes must be treated as confidential and retained per local procedures. Records must be maintained in accordance with the University of California Records Retention

Schedule.

G. Employment Eligibility Verification

Under federal law, the University of California is only required to verify employment eligibility demonstrating that all employees who are hired for pay or renumeration may legally work in the United States. These individuals include U.S. citizens or noncitizen nationals, lawful permanent residents, and other noncitizens who are authorized to work. In accordance with the Immigration Reform and Control Act of 1986 (IRCA), the University is required to verify the identity and work authorization of all employees hired after November 6, 1986, by completing the Employment Eligibility Verification (I-9) form. The University must not knowingly hire or continue to employ any individual not authorized to work in the United States. The University does not discriminate against individuals on the basis of national origin or citizenship.

As a federal contractor, the University participates in the U.S. Department of Homeland Security's E-Verify system, which is a web based service that verifies the work status of employees hired after November 6, 1986, and into positions performing work under a federal contract or subcontract that contains the Federal Acquisitions Requirement (FAR) E-Verify clause. E-Verify is not a prescreening employment tool and must not be applied in a discriminatory manner. Use of the E- Verify system requirements is in addition to the requirements specified in IRCA.

Nonimmigrant aliens authorized to work in the U.S., including student employees, must have or agree to acquire minimum health insurance coverage. (For additional information see Group Insurance and Health Plan Regulations or contact the local Human Resources Office.)

H. Employment of Near Relatives

The employment of near relatives in the same department may only be permitted when such concurrent employment serves the best interests of the University. To avoid a conflict of interest, an employee may not participate in the process of reviewing or decision-making on any matter concerning the appointment, promotion, salary, retention, termination, or other management decisions or personnel related decisions regarding a near relative.

Prior approval by the Chancellor is required when near relatives would have:

- A direct or indirect supervisory relationship with each other;
- The same immediate supervisor; or
- When two employees become near relatives and any of the work situations listed above apply.

For purposes of this policy, a near relative is defined as an employee's relationship by blood, adoption, marriage, or domestic partnership including:

- Spouse; domestic partner; parent; child; sibling; aunt/uncle; niece/nephew; first

cousin; and

- In-laws or step-relatives in one of these relationships, including relatives of an employee's domestic partner in one of the relationships listed above; or
- Other persons for whom the employee is legally responsible.

IV. COMPLIANCE/RESPONSIBILITIES

I. Implementation of the Policy

The Vice President–Systemwide Human Resources is the Responsible Officer for this policy and has the authority to implement the policy. The Responsible Officer may develop procedures or other supplementary information to support the implementation of this policy. Such supporting documentation does not require the approval of the President. The Responsible Officer may apply appropriate interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy. The Chancellor is authorized to establish and is responsible for local procedures necessary to implement the policy.

In accordance with PPSM-1 (General Provisions), authorities granted in this policy are also delegated to the Executive Vice President– Chief Operating Officer, Vice President–Agriculture and Natural Resources, Principle Officers of the Regents, and the Lawrence Berkeley National Laboratory Director.

Also in accordance with PPSM-1, the authorities granted in this policy may be redelegated except as otherwise indicated.

J. Revisions to the Policy

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Vice President–Systemwide Human Resources.

The Vice President–Systemwide Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws and Policies of the Regents.

The Executive Vice President–Chief Operating Officer has the authority to ensure that policies are regularly reviewed, updated, and consistent with other governance policies.

K. Approval of Actions

Actions within this policy must be approved in accordance with local procedures. Chancellors and the Vice President–Systemwide Human Resources are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

All actions applicable to PPSM-covered staff employees who are not Senior Management Group members that exceed this policy, or that are not expressly provided for under any policy, must be approved by the Vice President–Systemwide Human Resources.

L. Compliance with the Policy

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the

local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established.

The Vice President–Systemwide Human Resources is accountable for reviewing the administration of this policy.

M. Noncompliance with the Policy

Noncompliance with this policy is handled in accordance with PPSM 62, 63, and 64 pertaining to disciplinary and separation matters.

V. PROCEDURES

N. Critical Positions

The Chancellor will designate a position as critical if the position has one or more of the elements listed in the table below. Local procedures may include additional examples of critical position functions or tasks.

Depending on the duties and responsibilities, local procedures may require additional mandatory background checks for critical positions, in addition to the required criminal history background check. All UC Health Medical Center and Student Health Center positions are considered critical. Generally, Senior Management Group (SMG) positions are designated as critical.

Essential Elements of Critical Position	Additional Mandatory Background Checks	Examples of Critical Position Functions or Tasks
Possession of building master keys for access to residences, offices, or other facilities.	In accordance with local procedures, additional background checks may be mandatory for these critical positions.	• Retains access to master keys • Maintains building security
Direct responsibility for the care, safety and security of people, including children and minors, or property, including personal and University.	In accordance with local procedures, additional background checks may be mandatory for these critical positions.	• Has access to laboratories, computers and/or other valuable equipment • Provides services to children and minors • Provides employee or student counseling services

Essential Elements of Critical Position	Additional Mandatory Background Checks	Examples of Critical Position Functions or Tasks
Direct access to or responsibility for controlled substances (as defined in BFB-BUS 50); access to certain high risk hazardous chemicals, biological or radioactive/nuclear materials for which background checks are required by federal or state regulations or access to any other hazardous material specifically designated by the UC Executive Director of Environmental Health and Safety.	In accordance with local procedures, additional background checks may be mandatory for these critical positions.	• Has access to drugs in clinical research or research environments • Dispenses prescription medication
Direct access to and/or responsibility for protected, personal, or other restricted or sensitive institutional information, including information on students, faculty, staff, or other University constituents, and IT resources that process, transmit or store restricted or sensitive institutional information.	In accordance with local procedures, additional background checks may be mandatory for these critical positions.	Has access to employee or student records or other restricted, sensitive or confidential data, protected health information and/or restricted data
Responsibility for operating commercial vehicles, machinery or toxic systems that could result in accidental death, injury or health problems.	Motor vehicle record check	Operates heavy duty equipment, machinery or commercial vehicles
Requirement for a professional license, certificate, or degree, the absence of which would expose the University to legal liability and/or negative public reaction.	• Education verification; and/or • Professional license/credenti al verification	• Counsels employees or students • Provides legal counsel • Provides medical services

Essential Elements of Critical Position	Additional Mandatory Background Checks	Examples of Critical Position Functions or Tasks
Direct access to and/or responsibility for information affecting national security.	Government security clearance	Additional functions or tasks defined by agency granting security clearance, as appropriate

O. Credit History Background Checks

Essential Elements of Critical Position	Recommended Additional Background Check	Examples of Critical Position Functions or Tasks
Direct access to or responsibility for cash, cash equivalents, checks, credit/debit cards, University property, disbursements or receipts (as defined in BUS-49, Section III.C).	Credit history check	• Cashiering • Invoice approval and payment
Authority for committing the financial resources of the University through contracts or agreements.	Credit history check	• Approve contracts • Bids and RFPs

Credit history background checks are used to review a candidate's credit history, including, but not limited to, negative account information, accounts in collections or inquiries by third parties. A credit history background check may only be conducted for candidates hired into the following positions:

1. Managerial personnel position.
2. Sworn peace officer or other law enforcement position.
3. A position with access to all of the following types of information for any one person (including students, faculty, staff, or other University personnel):
   - Bank or credit card account information;
   - Social security number; and
   - Date of birth.
4. A position with access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, or process or trade secret.
5. A position with regular access to cash in the amount of $10,000 or more.
6. A position performing duties as a named signatory on a bank or credit card

account of the University, authorized to transfer money on behalf of the University, or authorized to enter into financial contracts on behalf of the University.

For more information on how credit history is handled in background checks, see Section III.D.1 of this policy.

VI. RELATED INFORMATION

- PPSM-2 (Definition of Terms) (referenced in Section II of this policy)
- PACAOS Section 14.40(a) (referenced in Section II of this policy)
- Anti-Discrimination Policy (referenced in Section II of this policy)
- PPSM-20 (Recruitment and Promotion) (referenced in Section III.A of this policy)
- UC Policy on Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions (referenced in Section III.A of this policy)
- PPSM-60 (Layoff and Reduction in Time from Professional & Support Staff Career Positions) (referenced in Section III.A of this policy)
- PPSM-66 (Medical Separation) (referenced in Section III.A of this policy)
- PPSM-81 (Reasonable Accommodation) (referenced in Section III.A of this policy)
- University of California Records Retention Schedule (referenced in Section III.A and Section III.D.4 of this policy)
- PPSM-30 (Compensation) (referenced in Section III.A of this policy)
- California Information Practices Act of 1977 (referenced in Section III.C of this policy)
- The Universitywide Police Policies and Administrative Procedures (referenced in Section III.D.2 of this policy)
- Fair Credit Reporting Act (FCRA) (referenced in Section III.D.3 of this policy)
- Immigration Reform and Control Act of 1986 (referenced in Section III.E of this policy)
- Employment Eligibility Verification (I-9) Form (referenced in Section III.E of this policy)
- E-Verify (referenced in Section III.E of this policy)
- Federal Acquisitions Requirement (FAR) E-Verify (referenced in Section III.E of this policy)
- Group Insurance and Health Plan Regulations (referenced in Section III.E of this policy)
- Local Human Resources Office (referenced in Section III.E of this policy)
- PPSM-1 (General Provisions) (referenced in Section IV.A of this policy)
- PPSM 62, 63, and 64 (referenced in Section IV.E of this policy)
- Business and Finance Bulletin BUS-50 (Controlled Substances) (referenced in Section V.A of this policy)

- Business and Finance Bulletin BUS-49 (Policy for Handling Cash and Cash Equivalents) (referenced in Section V.B of this policy)
- Sexual Violence and Sexual Harassment Policy
- AB 168 – Salary Inquiry Restrictions
- SB 1162 – Employment: Salaries and Wages
- Employment Discrimination: Conviction History: Assembly Bill 1008
- California Consumer Credit Reporting Agencies Act
- California Investigative Consumer Reporting Agencies Act (ICRAA)
- Business and Finance Bulletin, Information Systems BFB-IS-3 (Electronic Information Security)
- Business and Finance Bulletin, BUS-46 (Use of University Vehicles)
- University of California Policy on Substance Abuse
- AB 2188 – Discrimination in employment: use of cannabis
- Postsecondary education: hiring practices: academic, athletic, and administrative positions: Assembly Bill 810
- Postsecondary education: academic and administrative employees: disclosure of sexual harassment: Senate Bill 791

VII. FREQUENTLY ASKED QUESTIONS

Staff Employment Misconduct Disclosure

1. Why are final candidates being asked to complete the Employment Misconduct Disclosure Questionnaire?

Final candidates who have accepted a conditional offer of employment are required to complete the questionnaire as a condition of employment under UC policy and California law (SB 791 and AB 810). The University must collect information regarding any final administrative or judicial decisions related to misconduct within the past seven years.

This requirement helps UC maintain a safe, respectful, and inclusive workplace. The questionnaire is completed after a candidate has accepted a conditional employment offer.

Completion of the questionnaire is not required if either of the following conditions apply:

- An internal candidate or current staff, student staff employee or athletic department volunteer who accepts an offer of employment for any position at the same UC employment location where they are currently employed; or
- A former UC employee or athletic department volunteer who successfully completed a previous Staff Employment Misconduct Questionnaire within the last six months accepts an offer of employment at the same UC location from when they separated, and has not held any employment since the UC separation date.

2. What do final candidates need to disclose in the questionnaire?

Final candidates are required to disclose final administrative and judicial decisions (within the last seven years) where it was determined by a previous employer, administrative agency, or court that they committed Misconduct. Misconduct includes violations such as harassment, discrimination, and other workplace policy violations.

If a candidate answered "yes" that they had final administrative and judicial decisions that they committed misconduct on the questionnaire, they will be asked to provide additional context (e.g., what occurred, when, outcomes, and any corrective actions taken).

- For a Final Administrative Decision, a final candidate is required to disclose substantiated allegations that Misconduct occurred as determined by the decisionmaker following the final investigative report and any subsequent hearing or resolution, including any discipline or appeals process. A final candidate is not required to disclose any administrative decisions that are not final, including those with pending grievances or appeals.
- For a Final Judicial Decision, a final candidate is required to disclose findings or determinations that are recorded in a judgment or order of a court. Candidates may also voluntarily disclose if they have filed an appeal with a court. A final candidate is not required to disclose a judicial matter if no findings or determinations were made by the court or recorded in a judgment or order of that court.

3. Why are UC Personnel Files and UC Allegations of Misconduct reviewed?

When current or former UC employees (including volunteers who worked in an athletic department) apply for a new position or athletic department volunteer assignment, UC is required to conduct a personnel file review and check for any allegations of misconduct as part of the hiring process.

The UC Personnel File Reviews and UC Allegation of Misconduct Reviews help UC:

- Verify employment history (positions held, dates of employment);
- Understand a candidate's performance record, including achievements, training completion, and any disciplinary actions; and
- Identify any current or prior misconduct matters, including whether you are involved in an ongoing administrative or disciplinary process.

The purpose of these reviews is to allow UC to make a fair, informed hiring decision that considers the nature of the role, your full work history, and any relevant context. The reviews are conducted by Human Resources in coordination with appropriate compliance offices (e.g., Title IX, Civil Rights). All information reviewed is handled confidentially and on a need-to-know basis.

Personnel File Reviews are not required for current or former student staff employees except under the following circumstances:

- When a current or former student staff employee discloses substantiated allegations of misconduct at a UC location on the Staff Employment Misconduct Questionnaire; or

- When a current or former student staff employee is identified as having allegations of misconduct through the UC Allegations of Misconduct Review process.

If a Personnel Review is required for a student staff employee, the review is limited in scope to the specific department where the student worked at the time of the substantiated or alleged misconduct.

VIII. REVISION HISTORY

August 3, 2026: Edited to:

- Make clarifications to Section III.E
- Add new FAQs #1, #2, and #3 and delete previous FAQs #1 and #2

July 11, 2025: Updates made to implement enhanced hiring protocols that evaluate applicants' prior work history, including whether they have violated workplace policies of their current or prior employer(s) as described in SB 791 and AB 810, which added and amended Sections 92612.1 and 92612.2 of the California Education Code

April 21, 2025: Edited due to the revocation of Executive Order 11246 and to make typographical amendments

March 20, 2024: Added link to the new policy on Anti-Discrimination in Section VI

October 1, 2023:

- The Civil Rights Council amended Section 11017.1 of the California Code of Regulations, which regulates the consideration of conviction history in employment decisions. As a result, technical changes were made to bring policy into compliance with legal requirements regarding consideration of certain types of conviction history, and governing what an employer must do when they intend to deny an applicant employment conditionally offered because of the applicant's conviction history.
- Updated web links, included additional resources in Related Information, and made typographical amendments

December 10, 2018:

- Removed existing gendered pronouns and replaced with gender-neutral language
- Updated web and document links, office titles, and typographical amendments

November 20, 2018:

- Added language to clarify that consideration of an applicant's criminal history will be requested only after the University has made a conditional offer of employment to the candidate
- In support of the University's commitment to pay equity and in light of Assembly Bill 168 (AB 168), language was added to state that the University will not request or rely on an applicant's or candidate's salary history in determining salary or whether to offer employment. The University also will provide the pay scale for a position upon reasonable request by the applicant or candidate.

December 20, 2017:

- California Assembly Bill 1008 will add a section to the California Fair Employment and Housing Act (FEHA) containing state-wide restrictions on an employer's ability to make pre-hire and personnel decisions based on an individual's criminal history, including a "ban-the-box" component. As a result, technical changes were made to bring policy into compliance with legal requirements.

July 1, 2017:

- Added language per FEHA regulation amendments effective July 1, 2017
- Remediated to meet Web Content Accessibility Guidelines (WCAG) 2.0

January 27, 2017:

- Added language to require a criminal history background check on the final candidate recommended for hire in a critical position
- Expanded language on how to review and assess background checks
- Added a new section on reference checks
- Clarified language in the following sections:
    - Employee Release Time for UC Interviews;
    - Employment Eligibility Verification; and
    - Employment of Near Relatives.
- Updated critical positions chart

As a result of the issuance of this policy, the following document is rescinded as of the effective date of this policy and is no longer applicable:

- Personnel Policies for Staff Members 21 (Selection and Appointment), dated July 1, 2017

October 1, 2012:

- Reformatted into the standard University of California policy template
- California Assembly Bill 22, which restricts use of consumer credit reports for employment purposes, went into effect on January 1, 2012. As a result, technical changes were made to bring policy into compliance with legal requirements.

The following policies have been rescinded and are no longer applicable:

- Personnel Policies for Staff Members 21 (Appointment), dated October 1, 2012
- Personnel Policies for Staff Members 21 (Appointment), (incorporating Systemwide Guidelines with Procedures in Section V), dated October 2, 2009
- Personnel Policies for Staff Members 21 (Appointment), dated September 9, 2006
- Staff Personnel Policy 211 (Selection), dated April 1, 1991