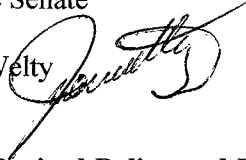


August 9, 2012

## MEMORANDUM

**TO:** Dr Lynn Williams, Chair  
Academic Senate

**FROM:** John D Welty   
President

**SUBJECT:** **Interim Revised Policy and Procedures for Fingerprinting and Conducting Background Checks (APM 315)**

On March 16, 2012, the Chancellor's Office issued its third coded memorandum on the topic of employee fingerprinting and background checks. This coded memorandum, HR 2012-04, requires that Fresno State, along with other campuses, perform a criminal records check on every employee or volunteer hired or assigned to supervise or discipline minors attending: (1) any Fresno State-sponsored camp or clinic or (2) any camp or clinic "not run by the University but the campus either conducts the criminal records check of its employees or is informed of the results of the criminal records check of the University's employees." HR 2012-04 also mandates that no such employee or volunteer may commence work at such a camp or clinic until designated administrators have reviewed fingerprint results and have cleared the employee or volunteer for work. Any campus using the "Livescan" fingerprinting process to obtain the criminal history of an employee or volunteer must authorize submission of fingerprints to the California Department of Justice and the FBI's National Crime Information Center

In light of the mandates of HR 2012-04, it is necessary to revise Fresno State's "Policy and Procedures for Fingerprinting and Conducting Background Checks" (Policy G-62). The proposed policy has several objectives. First, the current policy addresses the need for background checks of faculty members participating in a "multi-day camp or clinic offered to minor children" and lists as "sensitive" a position held by an employee who has responsibility for the care, safety and security of people, including children and minors. The proposed policy would require a criminal history check for all employees and volunteers who have responsibility to care for, supervise or discipline minors at a camp or clinic and eliminates the reference to "multi-day" activities. These changes are consistent with the requirements of HR 2012-04, which, unfortunately, does not define what constitutes a "camp" or "clinic." Under the proposed policy, the appropriate administrator, in determining whether an activity constitutes a camp or clinic, would consider a number of factors bearing on the amount and nature of supervision by both Fresno State employees and volunteers and external chaperones and bearing on the duration and kind of activity planned.

### Office of the President

California State University, Fresno

5241 North Barton Avenue M/S ML48 • Fresno, California 93740-8027

P 559.278.2324 F 559.278.4715 [www.FresnoState.edu](http://www.FresnoState.edu)

UNIVERSITY

THE CALIFORNIA STATE

Second, the current policy requires a background check for those employees and volunteers who work 90 or more days. Clearly, this provision would effectively exempt many camps and clinics, which are often planned on an *ad hoc* basis or near the end of the academic year and scheduled to occur during the summer break. The proposed policy explicitly provides that those having the responsibility to caring for, supervise or discipline minors attending such camp or clinic are required to have a background check even if they work for less than ninety days.

Third, the proposal addresses two unintentional omissions in the current policy. The current policy does not explicitly provide for a fingerprint check by the FBI's National Crime Information Center (NCIC) as required by HR 2012-04. Without a check by NCIC, Fresno State would receive only a record of California criminal convictions, not out-of-state convictions. This omission is cured in the proposal. The proposal also requires that those in sensitive positions must undergo, at a minimum, a criminal records check. The appropriate administrator would retain the discretion to require one of the other types of background checks listed in the current policy, depending on the nature of the position.

Fourth, the proposed policy requires that the administrator reviewing the criminal history statement consult with other administrators to determine whether any reported criminal conviction would prevent an applicant from assuming a sensitive position based on "job-related" criteria. This procedure is recommended in HR 2012-4 and by the Equal Employment Opportunity Commission.

Finally, the proposed policy includes a number of minor revisions such as updating the titles of those who participate in the background check process.

Attached is a redlined version of our current policy which incorporates the changes mandated in the Chancellor's Office coded memorandum HR 2012-04. I am asking that the Academic Senate review the proposed revisions and approve a change in the policy. While the Senate reviews these revisions, I am adopting it as an interim policy.

JDW:men

Attachment

Cc. Dr. William Covino  
Ms. Cynthia Teniente-Matson  
Dr. Paul Oliaro  
Dr. Peter Smits  
Dr. Lynnette Zelezny  
Mr. Thomas Boeh  
Ms. Janice Parten  
Dr. Michael Caldwell