



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 22

MEETING DATE: August 16, 2023

SUBJECT: Staff Background Check Policy

SUBMITTED FOR: Consent **Deliberation and Action** **Receive and File**

RECOMMENDATION

Approve minor amendments to SCERS' Staff Background Check Policy.

PURPOSE

This item supports Strategic Management Plan goals regarding transparency, efficiency, and compliance with laws and regulations.

DISCUSSION

In 2008, the Board adopted its Staff Background Check Policy, authorizing Staff to access and review the criminal history of prospective SCERS employees. The policy was amended in 2018 and 2019 to consolidate existing hiring policies and address changes in the law since adoption.

Pursuant to SCERS' practice of reviewing and refreshing policies every three years, Staff has re-evaluated the policy to consider whether any amendments are necessary due to legal changes or practical experience. Staff has concluded that only minor, non-substantive changes are appropriate in order to update the policy and its cited legal authorities.

ATTACHMENTS

- Board Order
- Redlined version of policy with proposed amendments
- Clean version of policy with proposed amendments

Prepared by:

/S/

Jason R. Morrish
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



Retirement Board Order

Sacramento County Employees' Retirement System

**Before the Board of Retirement
August 16, 2023**

AGENDA ITEM:

Staff Background Check Policy

THE BOARD OF RETIREMENT hereby approves Staff's recommendation to amend SCERS' Staff Background Check Policy with minor amendments.

I HEREBY CERTIFY that the above order was passed and adopted on August 16, 2023 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES
(Present but not voting):

Board President

Eric Stern
Chief Executive Officer and
Board Secretary



Redlined Version STAFF BACKGROUND CHECK POLICY

PURPOSE

This ~~p~~Policy authorizes the Sacramento County Employees' Retirement System (SCERS) to access summary criminal history information prior to employing any person, as an important preventive measure for safeguarding confidential information and SCERS' financial and other assets, and maintaining the highest levels of fiduciary responsibility.

POLICY

SCERS shall consider a person's criminal conviction history in determining whether such person is suitable for employment at SCERS. Accordingly, SCERS is hereby authorized to access local, state and federal summary criminal conviction history information for prospective employees, including prospective contract employees and volunteers. SCERS' consideration of a person's criminal conviction history is subject to the following rules and procedures:

1. SCERS will not inquire into or consider the conviction history of a job applicant until after SCERS has made a conditional offer of employment to the applicant, and the applicant has accepted such conditional offer.
2. SCERS will not consider any of the following while conducting a conviction history background check in connection with any application for employment: (a) an arrest not followed by conviction, except as permitted ~~by law in paragraph (1) of subdivision (a) and subdivision (f) of Section 432.7 of the California Labor Code~~; (b) referral to or participation in a pretrial or post-trial diversion program; and (c) convictions that have been sealed, dismissed, expunged, ~~or statutorily eradicated~~, pardoned or rehabilitated pursuant to law.
3. When SCERS intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history, SCERS shall make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position, which shall include consideration of the following by SCERS: (a) the nature and gravity of the offense or conduct; (b) the time that has passed since the offense or conduct and completion of the sentence; and (c) the nature of the job held or sought.
4. SCERS will provide job applicants with written notification of its preliminary decision that an applicant's conviction history disqualifies the applicant from employment, and such written notification shall include the following information: (a) notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the job offer; (b) a copy of the conviction history report, if any; (c) an explanation of the

applicant's right to respond to the notice of the employer's preliminary decision before the decision

~~5.~~

~~6.4.~~ becomes final, and the deadline by which to respond; and (d) notice that the applicant's response to the preliminary decision may include submission of evidence challenging the accuracy of the conviction history report that is the basis for rescinding the job offer, evidence of rehabilitation and evidence of mitigating circumstances, or both.

~~7.5.~~ If SCERS makes a final decision to deny an applicant employment solely or in part because of an applicant's conviction history, SCERS shall notify the applicant in writing of the following: (a) the final denial or disqualification; (b) any existing procedure SCERS has for the applicant to challenge the decision or request reconsideration; and (c) the applicant's right to file a complaint with the Department of Fair Employment and Housing regarding the final decision.

~~8.6.~~ SCERS shall not disseminate information about a person's criminal history information to any person or entity (including any private entity) not permitted to access such information by law.

BACKGROUND AUTHORITY

~~SCERS' systems and business practices require that many staff members have access to confidential member information including Social Security numbers, birthdates, home addresses and bank account information. In addition, many SCERS staff members are trusted with handling financial transactions.~~

~~Given SCERS' duty to safeguard confidential information and to protect against fraud, the Board has determined that criminal history information should be obtained for any person selected for SCERS employment.~~

~~California Penal Code Sections 11105(b)(11) and 13300(b)(11) require the governing board of a county or district to specifically authorize access to summary criminal history information for employment purposes.~~

~~California Government Code Section 12952 sets out certain rules governing an employer's consideration of a job applicant's criminal conviction history.~~

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

Date	Description
<u>08-16-2023</u>	<u>Board approved amended policy.</u>
08-21-2019	Board approved and renamed policy.
01-17-2018	Board approved amended policy in revised format
06-19-2008	Board adopted policy; Resolution 2008-14



STAFF BACKGROUND CHECK POLICY

PURPOSE

This policy authorizes the Sacramento County Employees' Retirement System (SCERS) to access summary criminal history information prior to employing any person, as an important preventive measure for safeguarding confidential information and SCERS' financial and other assets and maintaining the highest levels of fiduciary responsibility.

POLICY

SCERS shall consider a person's criminal conviction history in determining whether such person is suitable for employment at SCERS. Accordingly, SCERS is hereby authorized to access local, state and federal summary criminal conviction history information for prospective employees, including prospective contract employees and volunteers. SCERS' consideration of a person's criminal conviction history is subject to the following rules and procedures:

1. SCERS will not inquire into or consider the conviction history of a job applicant until after SCERS has made a conditional offer of employment to the applicant, and the applicant has accepted such conditional offer.
2. SCERS will not consider any of the following while conducting a conviction history background check in connection with any application for employment: (a) an arrest not followed by conviction, except as permitted by law; (b) referral to or participation in a pretrial or post-trial diversion program; and (c) convictions that have been sealed, dismissed, expunged, eradicated, pardoned or rehabilitated pursuant to law.
3. When SCERS intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history, SCERS shall make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position, which shall include consideration of the following by SCERS: (a) the nature and gravity of the offense or conduct; (b) the time that has passed since the offense or conduct and completion of the sentence; and (c) the nature of the job held or sought.
4. SCERS will provide job applicants with written notification of its preliminary decision that an applicant's conviction history disqualifies the applicant from employment, and such written notification shall include the following information: (a) notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the job offer; (b) a copy of the conviction history report, if any; (c) an explanation of the applicant's right to respond to the notice of the employer's preliminary decision before the decision becomes final, and the deadline by which to respond; and (d) notice that the

applicant's response to the preliminary decision may include submission of evidence challenging the accuracy of the conviction history report that is the basis for rescinding the job offer, evidence of rehabilitation and evidence of mitigating circumstances, or both.

5. If SCERS makes a final decision to deny an applicant employment solely or in part because of an applicant's conviction history, SCERS shall notify the applicant in writing of the following: (a) the final denial or disqualification; (b) any existing procedure SCERS has for the applicant to challenge the decision or request reconsideration; and (c) the applicant's right to file a complaint with the Department of Fair Employment and Housing regarding the final decision.
6. SCERS shall not disseminate information about a person's criminal history information to any person or entity (including any private entity) not permitted to access such information by law.

AUTHORITY

California Penal Code Sections 11105(b)(11) and 13300(b)(11)
California Government Code Section 12952

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

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