

DIRECTIVE NUMBER 300-02-16

DATE ESTABLISHED: August 17, 2016

TO: All Kansas Department of Labor Employees

FROM: Lana Gordon, Secretary of Labor

SUBJECT: Screening requirements for employment and unescorted access.

1.0 Purpose

- 1.1 To provide a process regarding the verification of tax clearance and criminal history prior to access being granted to information classified as restricted-use or above information.

2.0 Reference

- 2.1 Kansas Criminal Justice Information System Administrative Policy and Procedure v 5.4
- 2.2 Kansas Information Technology Executive Council – Information Technology Security Policy 7230 and Information Technology Security Standard 7230A
- 2.3 NIST SP 800-53A PS 3, 3(1),

3.0 Definitions

- 3.1 CJ: Criminal justice information provided by the KCJIS or the FBI, including but not limited to: biometric, identity history, person, organization, property, and case/incident history data.
- 3.2 Kansas Criminal Justice Information System (KCJIS): a system of connected data sources within a secure environment supporting the electronic exchange of information for local, state, and national criminal justice interests.
- 3.3 KCJIS CSO: The designated Kansas Highway Patrol (KHP) position who is responsible for the administration and usage of KCJIS programs and is accountable to the FBI's CJIS Division.
- 3.4 NLETS CHRI: National Law Enforcement Telecommunications Systems criminal history record inquiry. This criminal history inquiry runs an individual's name, date of birth, and social security number against the chosen state or state's criminal record data base. Responses can vary from state to state as to what is returned.

4.0 Policy

- 4.1 Individuals seeking employment with KDOL shall provide a Kansas Tax Clearance Certificate prior to consideration for employment.
- 4.2 Personnel, visitors and contractors that will have unescorted access shall provide full name, social security number, and date of birth for the purposes of checking for the existence of a criminal history check in the state of residency of the individual. If the state of residence is not Kansas, Kansas Criminal history will be checked in addition to the state of residency.
- 4.3 The individual's identity shall be validated against two forms of current and non-revoked, government issued identification.
 - 4.3.1 The first must be from the following list:
 - U.S. Passport or a U.S. Passport Card;
 - Permanent Resident Card or an Alien Registration Receipt Card (Form I-551);
 - Foreign passport;
 - Employment Authorization Document that contains a photograph (Form I-766);
 - Driver's license or an ID card issued by a state or possession of the United States provided it contains a photograph;
 - U.S. Military ID card; or
 - U.S. Military dependent's ID card.
 - 4.3.2 The second may be from the list above and may also include any other form of valid government issued identification source.
- 4.4 Contractors and visitors with unescorted access shall have files created and stored in HR.
- 4.5 Unescorted access or employment shall not be granted if the individual has engaged in the following conduct, whether or not charged as a crime or resulting in a conviction that would constitute:
 - 4.5.1 A felony.
 - 4.5.2 An offense requiring offender registration.
 - 4.5.3 Any conduct involving resisting arrest, attempting to flee or elude law enforcement, or obstruction of justice.
 - 4.5.4 Any crime of dishonesty, including but not limited to: theft, fraud, false writing, and perjury).

- 4.5.5 Any crime affecting public trust as defined in KSA 21-6001 through 21-6006, and amendments thereto.
 - 4.5.6 Personal local, state, or federal tax liability or delinquent student or government loans unless the applicant is on an approved payment plan.
 - 4.5.7 Any participation in, membership in, support of, solicitation for, or intentional contribution to any terrorist organization or organization espousing any intent to overthrow the government.
 - 4.5.8 Intentionally falsifying, misrepresenting, or omitting pertinent information while completing the employment application, preliminary interview questionnaire(s), or any other pre-employment document(s).
 - 4.5.9 Deliberately making materially inaccurate, misleading, false, or fraudulent statements or misrepresentations during the course of employment.
 - 4.5.10 Being an alien illegally within the territory of the United States.
 - 4.5.11 Any offense under the Kansas Racketeer Influenced and Corrupt Organization Act, defined at K.S.A. 21-6327 through 21-6331, and amendments thereto.
 - 4.5.12 Any solicitation, attempt or conspiracy to commit any of the prohibited conduct listed in this section.
 - 4.5.13 Any circumstance that is deemed a security risk by the Secretary or the Secretary's designee.
- 4.6 All individuals with unescorted access shall read and abide by the following policies and, where applicable, sign an acknowledgment of receipt and understanding:
- 4.6.1 Information Technology Acceptable Use Policy
 - 4.6.2 Information Technology Security and Resource policy
 - 4.6.3 Social Media Policy
 - 4.6.4 Reviewed KDOL approved security awareness training and acknowledged understanding of the training in accordance with Directive 700-02-14 Security Training Policy
- 4.7 For all non-KCJIS personnel, contractors and visitors with unescorted access, the existence of any circumstances listed in section 4.5 and any records of arrest, conviction or diversion shall be forwarded to the Secretary, or the Secretary's designee, immediately for review. Once unescorted access has been permitted, failure to notify the Secretary or Secretary's designee of the existence of any circumstances listed in section 4.5 by any personnel, contractor or visitor within 48 hours of occurrence shall be grounds for immediate termination of employment, contract or access.

- 4.8 All employees with unescorted access shall have name based criminal history checks rechecked at the time of a position change and on even numbered years. If a position change takes place with 6 months of a scheduled even numbered year criminal history re-check, a second check is not required that year.
- 4.9 All executed documents referenced in section 4.6 and the most recent criminal history review results of employees, contractors, or visitors, with unescorted access, shall be stored in the corresponding files in HR.
- 4.10 Personnel with unescorted access to data classified as KCJIS information or systems or secure areas that house these information systems and data, shall meet the following requirements:
- 4.10.1 To verify identification, a state of residency and national fingerprint-based record checks shall be conducted prior to the assignment of all personnel who have direct access to CJI and those who have direct responsibility to configure and maintain computer systems and networks with direct access to CJI. However, if the person resides in a different state than that of the assigned agency, the agency shall conduct state (of the agency) and national fingerprint-based record checks and execute a NLETS CHRI IQ/FQ/AQ query using purpose code C, E, or J depending on the circumstances.
 - 4.10.2 Non-US citizens must be legally able to perform the work in or for the United States.
 - 4.10.3 Individuals must be at least 18 years of age.
 - 4.10.4 If an individual resides outside the United States, fingerprints shall be obtained at a U.S. consulate or other U.S. government facility equipped to capture fingerprints to provide to the hiring agency.
 - 4.10.5 For screening purposes all available criminal history record information including diversions and expunged records shall be considered. All requests for access shall be made as specified by the KCJIS CSO. The KCJIS CSO, or their designee, is authorized to approve access to CJI. All KCJIS CSO designees shall be from an authorized criminal justice agency.
 - 4.10.6 Any individual with access to CJI must report any arrest, new indictment, charge, conviction, or diversion of a criminal violation to their agency head by the end of the business day following the reportable event. Agencies shall document procedures for reporting.
 - 4.10.7 If a felony conviction of any kind exists, the Secretary shall deny access to CJI. However, the Secretary may ask for a review by the KCJIS CSO in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

- 4.10.8 If a record of any other kind exists, access to CJI shall not be granted until the KCJIS CSO or his/her designee reviews the matter to determine if access is appropriate.
 - 4.10.9 If the person appears to be a fugitive or has an arrest history without conviction, the KCJIS CSO or his/her designee shall review the matter to determine if access to CJI is appropriate.
 - 4.10.10 If the person already has access to CJI and is subsequently arrested and or convicted, continued access to CJI shall be determined by the KCJIS CSO. This does not implicitly grant hiring/firing authority with the CSA, only the authority to grant access to CJI.
 - 4.10.11 If the KCJIS CSO or his/her designee determines that access to CJI by the person would not be in the public interest, access shall be denied and the person's appointing authority shall be notified in writing of the access denial.
- 4.11 Contractors and visitors, with unescorted access to KCJIS information and systems shall meet the following requirements, in addition to the requirements listed under 3.7:
- 4.11.1 Prior to granting access to CJI, the Secretary, or their designee, shall verify identification via a state of residency and national fingerprint-based record check. However, if the person resides in a different state than that of the assigned agency, the agency shall conduct state (of the agency) and national fingerprint-based record checks and execute a NLETS CHRI IQ/FQ/AQ query using purpose code C, E, or J depending on the circumstances.
 - 4.11.2 If a record of any kind is found, KDOL shall formally notify the contractor or visitor and system access shall be delayed pending review of the criminal history record information. KDOL shall in turn notify the Contractor-appointed Security Officer for contractor and vendors.
 - 4.11.3 When identification of the applicant with a criminal history has been established by fingerprint comparison, KDOL shall review the matter.
 - 4.11.4 A Contractor employee or visitor found to have a criminal record consisting of felony conviction(s) shall be disqualified.
 - 4.11.5 Applicants for access shall also be disqualified on the basis of confirmations that arrest warrants are outstanding for such applicants.
 - 4.11.6 KDOL shall maintain a list of personnel who have been authorized access to CJI and shall, upon request, provide a current copy of the access list to the KCJIS CSO.
 - 4.11.7 Applicants with a record of misdemeanor offense(s) may be granted access if the KCJIS CSO determines the nature or severity of the misdemeanor offense(s) do not warrant disqualification. KDOL may request the KCJIS CSO to review a denial of access determination.

- 4.12 KDOL employees and contractor requiring unescorted access to CJI or systems that store, process, or transmit unencrypted CJI, shall be rechecked on an annual basis or whenever there is reasonable suspicion that an individual's criminal history status has changed. KCJIS name-based rechecks shall include the following at a minimum:
 - 4.12.1 NCIC Persons File
 - 4.12.2 Interstate Identification Index (III)
 - 4.12.3 NLETS Identity Query for Persons' state of residence
 - 4.12.4 Kansas wanted person
 - 4.12.5 Kansas CCH
- 4.13 KCJIS required memorandum results and findings will be kept on file with the HR.
- 4.14 Any individual with access to KCJIS data shall report any arrest, new indictment, charge, conviction, or diversion of a criminal violation to their agency head by the end of the business day following the reportable event.

5.0 Responsibilities

- 5.1 Human Resources shall:
 - 5.1.1 Maintain copies of the results of the investigation and background check. These results shall contain no more information than is needed to identify if a passing or failing result was determined.
 - 5.1.2 Create files for employees, contractors, and visitors with unescorted access to restricted-use and above data.
 - 5.1.3 Recheck criminal history on all individuals with access to information classified restricted-use and above data.
 - 5.1.4 Use the name, social security number, and date of birth on file for this purpose.
 - 5.1.5 Store the results from these rechecks in the appropriate files.
- 5.2 Individuals responsible for filling a vacant position, sponsoring contracted personnel or requesting visitors be granted unescorted access shall:
 - 5.2.1 Be required to gather needed documentation and signed agreements for presentation to HR.
- 5.3 The KCJIS TAC/LASO shall:
 - 5.3.1 Require all positions with unescorted access to KCJIS data to be cleared in accordance with KCJIS Policy and the points covered above.
 - 5.3.2 Administer the fingerprinting process for individuals requiring access.

5.3.3 Present the results and findings of the criminal history investigations to HR so they may be kept in accordance with HR responsibilities.

6.0 Revision History

6.1 Established: August 17 2016

Signature on file
Lana Gordon, Secretary of Labor

Rescissions:	Expiration Date: Continuous
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