

AGENDA ITEM 2 B
Action Item

MEMORANDUM

DATE: October 1, 2026

TO: El Dorado County Transit Authority

FROM: Steffi Ahart, Human Resources Manager

SUBJECT: Revised Board Policy E-5 – Background Investigations, Criminal History Inquiries, Criminal Offender Record Information (CORI), and Records Security

REQUESTED ACTION:
BY MOTION,

Approve the revised Board Policy E-5 – Background Investigations, Criminal History Inquiries, Criminal Offender Record Information (CORI), and Records Security, including the associated policy forms and attachments, and authorize implementation of the revised policy

BACKGROUND

The El Dorado County Transit Authority (El Dorado Transit or Agency) is committed to providing a safe workplace for employees and safe, reliable public transportation services for the communities it serves. Background investigations assist El Dorado Transit in making informed employment decisions, protecting employees and the public, and reducing the risk of negligent hiring.

The Agency has maintained employment background investigation requirements for many years. Significant Board actions and legal updates include:

- **September 2006** – Adoption of Resolution No. 06-13 authorizing access to State and Federal criminal history information for employment purposes.
- **November 1, 2007** – Adoption of Board Policy E-4 establishing pre-employment background investigation requirements.
- **October 9, 2009** – Revision of the Personnel Policies and Procedures to establish background investigation requirements for employees who are reclassified, transferred, demoted, or promoted into designated classifications.
- **July 1, 2014** – Update to the Agency's employment application and conditional offer process to comply with Assembly Bill 218, delaying criminal history inquiries until after a conditional offer of employment was made in accordance with California law.
- **February 6, 2020** – Comprehensive revision of Board Policy E-5 to incorporate California Fair Chance Act requirements and updated employment background investigation procedures.

Since the policy was last revised in 2020, additional changes in applicable federal and California law, California Department of Justice (DOJ) requirements, and Agency operational practices have warranted a comprehensive review and update of the policy. The Agency has also completed participation in the California Department of Justice Applicant Agency Authorization and Certification Program, resulting in the designation of a Custodian of Records and implementation of enhanced Criminal Offender Record Information (CORI) security requirements.

Staff, in coordination with Legal Counsel and utilizing current guidance provided by the California Department of Justice, conducted a comprehensive review of Board Policy E-5 to ensure the Agency's employment background investigation practices, CORI security requirements, and associated forms remain consistent with current legal and regulatory requirements.

DISCUSSION

The proposed revisions comprehensively update Board Policy E-5 while maintaining the overall organization and intent of the policy originally adopted by the Board.

The revised policy maintains the Agency's commitment to conducting lawful, fair, and consistent employment background investigations while incorporating current California Fair Chance Act requirements, updating criminal history inquiry procedures, and strengthening safeguards for the protection, use, and confidentiality of Criminal Offender Record Information (CORI).

The revisions include, but are not limited to:

- Updating the policy to reflect current federal and California laws governing employment-related background investigations and criminal history inquiries.
- Incorporating current California Fair Chance Act requirements, including individualized assessments and preliminary and final adverse employment action procedures.
- Clarifying the responsibilities of the Agency's designated Custodian of Records for the receipt, access, use, maintenance, security, protection, and oversight of Criminal Offender Record Information (CORI), including compliance with applicable DOJ requirements.
- Establishing requirements governing the protection, confidentiality, storage, transmission, retention, and security of CORI in accordance with applicable California Department of Justice (DOJ) requirements and the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy.
- Establishing Agency requirements regarding personally owned devices, electronic transmission of CORI, and security incident reporting.
- Updating Agency forms and policy attachments to reflect current legal, DOJ, and operational requirements, including use of the current California Department of Justice Employee Statement Form (BCIA 9006), while allowing administrative updates to forms when appropriate.
- Clarifying requirements for pre-employment and employment-related screening, including criminal history checks, employment and education verification, professional

licenses and certifications, driving records, Department of Transportation requirements for applicable safety-sensitive positions, and consumer reports when legally authorized.

- Removing outdated references, obsolete procedures, and superseded terminology contained in the 2020 policy.

The revised policy provides a comprehensive framework governing background investigations, criminal history inquiries, consumer reports when authorized by law, Criminal Offender Record Information (CORI) security, records confidentiality, and related employment practices. The revisions strengthen the Agency's governance over CORI by establishing clear responsibilities for its protection, access, use, security, confidentiality, transmission, retention, and reporting in accordance with applicable California Department of Justice (DOJ) requirements, the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy, and other applicable federal and California laws.

Staff recommends adoption of the revised Board Policy E-5 and associated policy forms and attachments to replace the existing February 2020 policy.

FISCAL IMPACT

There is no direct fiscal impact associated with adoption of the revised Board Policy E-5.

El Dorado County Transit Authority

Subject	Policy Number	Date Proposed
PERSONNEL <u>October 1, 2026</u>	E-5	<u>February 6, 2020</u>

Background Investigations, Criminal History Inquiries, Criminal Offender Record Information (CORI), and Records Security

I. PURPOSE

The El Dorado County Transit Authority (“El Dorado Transit” or “Agency”) is committed to providing a safe, secure, and professional work environment for its employees, passengers, volunteers, contractors, and the public. As a public transit agency entrusted with public resources and responsible for providing safe transportation services, the Agency recognizes the importance of conducting appropriate background investigations and safeguarding Criminal Offender Record Information (“CORI”) obtained through the California Department of Justice (“DOJ”).

The purpose of this policy is to establish uniform procedures governing criminal history inquiries, background investigations, other employment-related screening authorized or required by law, the receipt and use of CORI, and the protection of confidential criminal history information. This policy is intended to ensure that all employment-related decisions are made in a fair, consistent, and legally compliant manner while protecting the Agency, its employees, applicants, passengers, and the public.

The Agency will conduct criminal history inquiries and background investigations fingerprint-based criminal history checks, and other background investigations only as authorized or required by applicable federal or California law. Criminal history information will be considered only when and to the extent permitted by applicable law and, where applicable, in a manner that is job-related and consistent with business necessity. Except as otherwise permitted or required by law, the Agency will not inquire into or consider an applicant’s criminal history until after a conditional offer of employment has been made. The Agency will conduct individualized assessments when required and will not discriminate against applicants or employees on the basis of criminal history in violation of applicable law.

The Agency is equally committed to protecting the confidentiality, integrity, and security of CORI. Access to CORI shall be limited to authorized personnel with a legitimate business need, and CORI shall be received, accessed, maintained, used, disclosed, stored, transmitted, retained, and destroyed in accordance with applicable DOJ requirements, the FBI Criminal Justice Information Services (“CJIS”) Security Policy, and all other applicable federal and California laws.

This policy also establishes responsibilities for Agency officials, managers, supervisors, the Custodian of Records, and authorized personnel regarding the appropriate handling of criminal history information, compliance with security requirements, and the reporting and management of actual or suspected security incidents involving CORI.

Nothing in this policy is intended to limit the Agency's authority to make employment decisions as permitted by applicable law, nor shall this policy be interpreted to create any contractual right to

employment.

~~El Dorado County Transit Authority (“El Dorado Transit” or “Agency”) is dedicated to protecting its passengers, employees, and assets by conducting background checks. At times background checks may be required by the Federal Transit Administration (FTA) for individuals under consideration for hire, as well as current employees who are reclassified, transferred, demoted or promoted into designated job classifications or designated positions within classifications. Additionally, a background check may be required for a current employee whose classification specification has been revised to include newly assigned job duties that are either safety sensitive or allow the employee new access to Agency assets.~~

~~Background checks for employment may include but are not limited to the following: review of applicants’ criminal conviction and credit histories; review of California Department of Motor Vehicle records, verification of employment qualifications and pre-employment and on-going drug testing as required by the U.S. Department of Transportation.~~

~~El Dorado Transit’s Board of Directors authorizes the Executive Director or designee to acquire state and federal criminal history and, for selected positions, pre-employment consumer credit information. Further, the Board grants the Executive Director the authority to administer and implement the policy and to adopt procedures to secure confidentiality of such information gathered during background investigations.~~

~~The Executive Director has the authority to designate a Records Security Officer that will be assigned duties as the Custodian of Records for Live Scan Service, as defined by the State of California—Department of Justice Requirements and also information gathered by any Third Party employment background screening agencies engaged by the Agency.~~

~~El Dorado Transit’s Board Policy E-5, and state and federal laws recognize that the individual has a right to privacy, and prohibit employees and others from seeking, using, or disclosing personal information, except within the scope of their assigned duties.~~

II. Affected Individuals

This policy applies to all individuals seeking employment with or employed by El Dorado Transit, regardless of employment status or classification, to the extent they are subject to a background investigation, criminal history inquiry, or fingerprint-based criminal history check that is required or lawfully authorized as a condition of employment, continued employment, or assignment to a particular position.

Individuals subject to this policy include, but are not limited to:

1. Applicants who have received a conditional offer of employment;
2. Full-time, part-time, extra-help, temporary, seasonal, and probationary employees;
3. Current employees who are being considered for promotion, transfer, reassignment, reclassification, or appointment to another position when an additional or updated background investigation is required or authorized by law or Agency policy;
4. Volunteers, interns, consultants, contractors, or other individuals performing services for the Agency when a background investigation is required by law, contract, or Agency policy; and

5. Any other individual for whom a background investigation, criminal history inquiry, or fingerprint-based criminal history check is authorized or required under applicable federal or California law.

Prospective employees shall complete the background investigation and screening requirements applicable to the position, including a fingerprint-based criminal history check through the DOJ and, when authorized or required by applicable law, a check through the FBI, where such check is required or authorized by applicable law and identified as a requirement for the applicable job classification. Employment is contingent upon the satisfactory completion of all required background investigations and screenings, and the Agency's determination that the individual meets the qualifications and applicable legal and job-related requirements for the position.

Nothing in this policy shall be interpreted to limit the Agency's authority to require additional background investigations, criminal history inquiries, or other pre-employment or employment-related screenings when permitted or required by applicable law and applicable to the position or circumstances.

This Board policy applies to all Agency employees and applicants who are subject to the background investigation process.

III. Definitions

A. Agency

Agency means El Dorado Transit.

B. Applicant

Applicant means an individual who has applied for employment with the Agency and, for purposes of the California Fair Chance Act, who has received a conditional offer of employment, when applicable under federal or California law.

C. Background Investigation

Background Investigation means the process of verifying information provided by an applicant or employee and obtaining information relevant to determining an individual's qualifications, and, where lawfully applicable, suitability, trustworthiness, and fitness for employment. A background investigation may include, as authorized by law and applicable to the position, criminal history information, employment verification, education verification, professional licenses or certifications, driving records, consumer reports, reference checks, and other legally authorized inquiries.

D. Conditional Offer of Employment

Conditional Offer of Employment means an offer of employment that is contingent upon the satisfactory completion of lawfully required or authorized pre-employment screenings, including but not limited to background investigations, criminal history inquiries, medical examinations, drug and alcohol testing, verification of qualifications, and any other requirements applicable to the position and permitted or required by law or Agency policy.

E. Consumer Credit Report

Consumer Credit Report means a consumer report containing information regarding an individual's creditworthiness, credit standing, or credit capacity that is obtained from a consumer reporting agency for employment purposes. Consumer Credit Reports are a type of Consumer Report and are distinct

from CORI and other criminal history information obtained directly from the DOJ or another authorized criminal justice agency. Consumer Credit Reports are subject to the Fair Credit Reporting Act (FCRA), California Investigative Consumer Reporting Agencies Act (ICRAA), California Consumer Credit Reporting Agencies Act (CCRAA), and other applicable federal and California law.

F. Consumer Report

Consumer Report means any written, oral, or other communication prepared by a consumer reporting agency bearing on an individual's creditworthiness, character, general reputation, personal characteristics, or mode of living that is used or expected to be used for employment purposes.

G. Conviction

Conviction means a finding of guilt by a court of competent jurisdiction, including a guilty plea, plea of nolo contendere (no contest), or conviction following trial, as permitted by applicable law.

H. Criminal History

Criminal History means information concerning criminal convictions or other criminal conduct that may lawfully be considered by the Agency for employment purposes. Criminal history does not include information that the Agency is prohibited from inquiring into or considering under applicable federal or California law.

I. Criminal Offender Record Information (CORI)

Criminal Offender Record Information (CORI) means criminal history record information received from the California Department of Justice or other authorized criminal justice agencies through fingerprint-based background checks or other authorized means. CORI is confidential and shall be accessed, received, maintained, used, disclosed, stored, transmitted, retained, and destroyed only as authorized by law and this policy.

J. Custodian of Records

Custodian of Records (COR) means the individual designated by the Agency and approved by the California Department of Justice (DOJ) to receive, access, maintain, use, protect, and oversee the security of Criminal Offender Record Information (CORI), ensure compliance with applicable DOJ requirements, and serve as the Agency's primary point of contact for matters relating to CORI access, security, and reporting.

K. Direct and Adverse Relationship

Direct and Adverse Relationship means a direct and adverse relationship between the nature of a conviction and one or more specific duties of the position, such that consideration of the conviction is relevant to the individual's ability to perform those duties.

L. Fingerprint-Based Criminal History Check

Fingerprint-Based Criminal History Check means a criminal history review conducted through the California Department of Justice using fingerprint submissions (Live Scan) and, when authorized, the Federal Bureau of Investigation.

M. Individualized Assessment

Individualized Assessment means the assessment required before making a final adverse employment decision based on conviction history under applicable, taking into consideration the nature and gravity of the offense or conduct, the time that has passed since the offense or completion

of the sentence, the nature of the position sought or held, and any evidence of rehabilitation or mitigating circumstances provided by the individual or otherwise permitted to be considered under applicable laws.

N. Live Scan

Live Scan means the electronic fingerprinting process used to submit fingerprints to the California Department of Justice and, when authorized, the Federal Bureau of Investigation for criminal history record checks.

O. Safety-Sensitive Position

Safety-Sensitive Position means any position designated as safety-sensitive under applicable federal or California law or regulations, or any position designated by the Agency as safety-sensitive based on duties that may affect the safety of the employee, co-workers, passengers, or the public. Safety-sensitive positions may be subject to additional federal or state requirements, including Department of Transportation regulations, drug and alcohol testing, medical certification, or other employment standards.

P. Suitability for Employment

Suitability for Employment means the Agency's determination that an individual possesses the qualifications, integrity, trustworthiness, reliability, and ability to safely and effectively perform the essential duties of the position, as permitted by applicable law and based on lawful, job-related criteria.

Q. Human Resources Manager

Human Resources Manager means the Agency official responsible for administering this policy, coordinating background investigations, ensuring compliance with applicable employment laws, maintaining employment records related to background investigations, serving as or coordinating with the Agency's Custodian of Records when designated, and making recommendations regarding employment actions in accordance with this policy.

“Applicant”: A person who is being considered for employment with El Dorado Transit in one of the job classifications or positions within classifications designated in the Board Policy and Administrative Regulation, regardless of whether the person is currently employed by El Dorado Transit in a different job capacity, or has been previously employed by El Dorado Transit in any capacity.

“Volunteer”: A person who is being considered to perform work for El Dorado Transit without receiving any compensation in return.

“Background Check Report”: The process of legally obtaining and compiling, from a third party, criminal, commercial, and/or other legally permissible records for Applicants or employees transitioning to a designated job classification.

“Conviction”: A plea of guilty or no contest, or a verdict or finding of guilt, regardless of whether a sentence was imposed by the Court. (See criminal history below for further clarification)

“Consumer Credit Report History”: Any written, oral or other communication of any information by a consumer credit reporting agency bearing on a consumer's credit worthiness, credit standing, or credit

capacity, which is used or is expected to be used, or collected, in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for employment purposes.

Jobs requiring a consumer credit report fall into three categories, subject to the limitations as set forth in California Government Code §12952

- A. All job classifications or positions with oversight of key information and technology management.
- B. All job classifications or positions with senior level financial management responsibilities.
- C. Any other positions required by law.

~~“Criminal History”~~: Records maintained by the California Department of Justice (DOJ) or by other local or federal agencies, pertaining to the identity and criminal history of any person. The Background Review Committee is limited to the consideration of convictions only and shall not consider criminal information related to conduct that did not result in a conviction. The following records are also prohibited from consideration:

- A. An arrest not followed by a conviction except under limited circumstances;
- B. Conviction information concerning a referral to, and participation in, any pretrial or post-trial diversion program;
- C. Information concerning convictions that have been judicially ordered sealed, expunged, or statutorily eradicated pursuant to law or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation

If the specific behavior at issue resulted in a conviction, the record of information may include name, date of birth, date of arrest, arresting agency, booking numbers, charges, dispositions and similar data about the person as it related to said criminal convictions.

~~“Designated Classification” or “Position”~~: Any classification or specific position within classification may be designated based upon the illustrative functions detailed in the job description, or specific functions of a position listed in the job announcement. The Human Resources Department makes all such designations, which may be reviewed by legal counsel. The current Designated Classification/Position list is attached.

~~“Felony”~~: As defined in Penal Code § 17(a), as amended.

~~“Fiduciary Responsibility”~~: A duty held by employees with access to, custody of, and/or administration of property including financial instruments (cash, checks, accounts) belonging to El Dorado Transit.

~~“Job Classification Specification”~~: A description of the job responsibilities of a position that also includes the requisite knowledge, skills, experience, and education to perform the job.

~~“Live Scan Criminal Background Check”~~: A process by which an Applicant's or employee's fingerprints are captured electronically, and transmitted to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI), in order to determine whether an Applicant, employee, or volunteer has a criminal history.

~~“Master Key Access”: A key or mechanical device, such as an electronic card, allowing entry to all or many parts of a facility.~~

~~“Nexus”: The relationship between specific criminal conduct and the duties of a specific job classification, or designated position within a classification.~~

~~“Pending Charge”: A criminal charge that has not been adjudicated at the time of the first review by the Committee.~~

~~“Personally Identifiable Information”: Information that identified or describes an individual, including but not limited to name, address, telephone number, family members, social security number, credit card numbers, and physical characteristics that would make the individual’s identity easily discoverable.~~

~~“Position”: A single job held by an individual in a job classification for which the individual has been hired, or provisionally hired.~~

~~“Records Security Officer (RSO)” / “State of California Custodian of Records (COR)”: The Executive Director, or designee, whose responsibility it is to ensure the confidentiality and security of all criminal history information requested and received. The RSO must meet the requirements of the State of the California, Department of Justice for Custodian of Records for Live Scan.~~

~~“Suitability for Employment”: The determination of whether or not an individual meets or exceeds the hiring criteria for a position; including consideration of criminal background, and/or negative credit history, if any.~~

IV. Criminal History

The Agency recognizes its responsibility to provide a safe and secure workplace while ensuring that all applicants and employees are treated fairly and in accordance with applicable federal and California law. Criminal history information shall be considered only when authorized by law and, where applicable, job-related and consistent with business necessity.

A. Criminal History Inquiries

The Agency shall not inquire into or consider an applicant's criminal history until after a conditional offer of employment has been made, except where otherwise permitted or required by applicable federal or California law.

Following a conditional offer of employment, the Agency may conduct a criminal history inquiry through the California Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), or other legally authorized sources, to the extent authorized or required by applicable law and applicable to the position.

The Agency shall notify applicants when a criminal history background investigation is required and shall obtain all authorizations required by law before conducting any background investigation.

B. Criminal History Information That May Be Considered

When authorized by law, the Agency may consider criminal conviction information that has a direct and adverse relationship to one or more specific duties of the position.

In evaluating criminal history, the Agency shall consider, at a minimum:

1. The nature and gravity of the offense or conduct;
2. The time that has passed since the offense or conduct or completion of the sentence;
3. The nature and responsibilities of the position sought or held;
4. Whether the conviction has a direct and adverse relationship to the individual's ability to perform one or more specific duties of the position;
5. Evidence of rehabilitation, good conduct, education, training, employment history, or other mitigating information submitted by the individual; and
6. Any other factors required by applicable law.

The Agency shall conduct and document an individualized assessment whenever required by law before making an employment decision based upon criminal history information.

C. Criminal History Information That Shall Not Be Considered

Except as otherwise authorized or required by law, the Agency shall not consider criminal history information that the Agency is prohibited by applicable federal or California law from inquiring into or considering, including, as applicable:

1. An arrest not followed by a conviction except to the extent consideration or inquiry is expressly permitted by applicable law;
2. Participation in or completion of a pretrial or post-trial diversion program;
3. Convictions that have been sealed, dismissed, expunged, eradicated, or otherwise made unavailable for employment purposes by law;
4. Juvenile adjudications;
5. Non-felony convictions for possession of marijuana that are more than two (2) years old, to the extent consideration of such convictions is prohibited by applicable law;
6. Any other criminal history information that the agency is prohibited from considering under applicable Federal or California law.

Nothing in this policy shall prohibit the Agency from considering criminal history information when such consideration is expressly authorized or required by federal or California law.

D. Individualized Assessment

Prior to withdrawing a conditional offer of employment or taking any adverse employment action based in whole or in part on an individual's criminal history, the Agency shall conduct an individualized assessment when required by applicable federal or California laws.

The individualized assessment shall include consideration of the factors identified in Section IV.B of this policy as well as any additional information voluntarily provided by the individual regarding rehabilitation,

mitigating circumstances, employment history, educational achievements, community involvement, or other relevant information that may lawfully be considered.

E. Preliminary Decision

If the Agency makes a preliminary determination that an individual's criminal history provide a lawful basis for an adverse employment decision, the Agency shall provide written notice in accordance with applicable law.

The preliminary notice shall include:

1. Notice of the preliminary decision;
2. A copy of the criminal history report or other criminal history information relied upon, when required by law;
3. Notice of the individual's right to respond before a final decision is made;
4. Information regarding the deadline for submitting a response; and
5. Any other information required by applicable law.

F. Applicant Response

An applicant shall be provided with the opportunity to respond to the preliminary decision within the timeframe established by applicable law.

The individual may submit information demonstrating:

- The accuracy or inaccuracy of the criminal history information;
- Evidence of rehabilitation;
- Employment history;
- Educational achievements;
- Character references;
- Good conduct;
- Mitigating circumstances; or
- Any other information the individual believes is relevant to the Agency's consideration.

The Agency shall consider all timely submitted information before making a final employment decision to the extent required by applicable law.

G. Final Employment Decision

After considering all information available, including any response submitted by the individual, the Agency shall make a final determination regarding employment.

If the Agency determines that the individual is disqualified from employment based upon criminal history information, the Agency shall provide written notice consistent with applicable law.

The final notice shall include, as applicable:

1. The final employment decision;
2. Notice of any procedures available to challenge the decision or request reconsideration;
3. Information regarding the individual's right to file a complaint with the appropriate governmental agency; and
4. Any other notices required by federal or California law.

H. Confidentiality

All [CORI](#) received by the Agency shall be treated as confidential and shall be accessed only by authorized individuals with a legitimate business need.

CORI shall not be used or disclosed except as authorized by law and shall be maintained, stored, transmitted, retained, and destroyed in accordance with this policy, applicable [DOJ](#) requirements, the [FBI CJIS Security Policy](#), [where applicable](#), and all other applicable federal and California laws.

A. Denial of Employment based on Criminal History

- ~~1. No Applicant (either internal or external) for employment with Transit will be summarily disqualified from employment based solely on criminal conviction. Transit shall consider an Applicant's prior criminal convictions among multiple factors in making individual hiring decisions. Transit shall evaluate each Applicant on a case by case basis to determine if the particular circumstances of the conviction(s) indicate whether or not the Applicant is suitable for employment.~~
- ~~2. Pending Charge: If a criminal charge is still pending at the time of the review, the Applicant or employee will not move forward in the hiring process until there has been a final disposition from the court and the Applicant or employee has provided adequate documentation to Human Resources, for review.~~

B. Criminal Convictions

- ~~1. Except as provided below, Transit shall not:~~
 - ~~a. Include on any application for employment any question that seeks the disclosure of an Applicant's conviction history;~~
 - ~~b. Inquire into or consider the conviction history of the Applicant until after the employer has made a conditional offer of employment~~
 - ~~c. Consider, distribute or disseminate information about any of the following while conducting a conviction history background check:~~
 - ~~i. An arrest not followed by a conviction, except under limited circumstances pursuant to California Labor Code §432.7;~~
 - ~~ii. Referral or participation in a pretrial diversion program; or~~
 - ~~iii. Convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation~~

- ~~2. In determining whether an Applicant should be denied employment based solely or in part because of the Applicant's conviction history, Transit shall make an individualized assessment as to whether the Applicant's conviction history has a direct and adverse relationship to the specific duties of the job that justifies denying the Applicant the position. In making such an assessment, Transit shall consider the following:
 - ~~a. The nature and gravity of the offense;~~
 - ~~b. The time that has passed since the offense or conduct and the completion of the sentence; and~~
 - ~~c. The nature of the job held or sought.~~~~
- ~~3. If Transit determines that the Applicant's conviction history has a direct and adverse relationship to the specific duties of the job that justify denying the Applicant the position, Transit may deny employment to the Applicant pursuant to the procedures outlined below.~~

~~C. Procedures~~

- ~~1. Criminal Background Check: A criminal background check will be conducted only after a conditional offer of employment is made. The Applicant must complete the Post Conditional Offer Criminal History Inquiry form at the time they receive their offer letter and pre-employment background packet.~~
- ~~2. When a Background Check Reveals Negative Information: Transit will be notified when an Applicant's or employee's criminal background check lists conviction(s), will review that information, and then make a preliminary decision regarding whether the Applicant's conviction history disqualifies the Applicant or employee. El Dorado Transit shall notify the Applicant of this preliminary decision in writing. Such notification shall contain the following:
 - ~~a. Notice of the disqualifying conviction(s) that is the basis of the preliminary decision to rescind the offer;~~
 - ~~b. A copy of the conviction history report, if any;~~
 - ~~c. An explanation of the Applicant's rights to respond to the notice of Transit's preliminary decision before the decision becomes final and the deadline by which to respond. The explanation shall inform the Applicant that the Applicant's response may include submission of evidence challenging the accuracy of the conviction history report and/or evidence of rehabilitation and/or mitigating circumstances.~~~~
- ~~3. The Applicant shall have five (5) business days to respond to the preliminary decision. The Applicant shall have five (5) additional business days to respond when the Applicant notifies Transit in writing that the Applicant disputes the accuracy of the conviction history report. Transit shall consider this information before making a final decision.~~
- ~~4. Final Decision: In making a final decision, Transit may consider among other relevant factors, the following:
 - ~~a. The nature of the criminal conduct;~~
 - ~~b. The number of convictions;~~
 - ~~c. Whether or not the convictions were disclosed;~~~~

- d. ~~The length of time since the criminal conviction in relation to the time of the job application~~
 - e. ~~The degree of rehabilitation evidenced by the Applicant~~
 - f. ~~The Applicant's employment history~~
 - g. ~~The circumstances under which the crime(s) were committed, including any mitigating circumstances; and~~
 - h. ~~Whether the nature of the conviction(s) in relationship to the particular duties of the job classification create a risk of endangerment to any person and/or property of the public, and/or Transit's employees or assets.~~
5. ~~If Transit makes a final decision to deny the Applicant based solely or in part on the Applicant's conviction history, Transit shall notify the Applicant in writing of all of the following:~~
- a. ~~Transit may, but is not required to, justify its reasoning for making the final disqualification;~~
 - b. ~~Any existing procedure for challenging the reasoning for making the final decision or reconsiderations and;~~
 - c. ~~The right to file a complaint with the Department of Fair Employment and Housing.~~
6. ~~The process to rescind a job offer will be documented in the event the Applicant chooses to dispute the decision. Transit is committed to providing consistency in its hiring practices and the action is in no way discriminatory against those with any criminal history.~~

V. Background Check Reports

El Dorado Transit obtains background check reports to verify the qualifications and, where lawfully applicable, suitability of prospective employees and, when applicable, current employees. Background check reports are intended to assist the Agency in making informed employment decisions while protecting the safety of employees, passengers, Agency property, and the public.

Criminal history inquiries and reports shall not be obtained or considered before a conditional offer of employment has been made, except as otherwise permitted or required by applicable federal or California law. Other types of background investigations may be conducted at an earlier stage of the employment process when permitted or required by applicable law and applicable to the position.

The Agency may obtain one or more of the following background check reports, as applicable to the position:

A. Criminal History Reports

Fingerprint-based criminal history reports obtained through the California Department of Justice (DOJ) and, when authorized, the Federal Bureau of Investigation (FBI), shall be reviewed in accordance with Section IV of this policy and applicable law.

B. Employment Verification

The Agency may verify an applicant's previous employment, including dates of employment,

positions held, job duties, performance, attendance, eligibility for rehire, and other information lawfully obtained from previous employers.

C. Education Verification

The Agency may verify educational degrees, diplomas, certifications, professional licenses, and other qualifications that are required or represented by the applicant.

D. Professional Licenses and Certifications

The Agency may verify the status, validity, and standing of any professional license, certification, endorsement, registration, or credential required for the position, including any restrictions, suspensions, revocations, or disciplinary actions when authorized by law.

E. Driving Record

For positions requiring the operation of Agency vehicles or possession of a valid driver's license, the Agency may obtain and review the applicant's Department of Motor Vehicles (DMV) driving record as permitted or required by applicable law to determine eligibility for employment and other lawful requirements applicable to the position.

F. Department of Transportation (DOT) Requirements

Applicants for safety-sensitive positions subject to U.S. Department of Transportation regulations shall be required to successfully complete all federally mandated pre-employment requirements, including drug and alcohol testing, medical certification, prior employer inquiries, and any other requirements established by applicable federal regulations.

G. Consumer Reports

Consumer reports or investigative consumer reports may be obtained only when authorized by applicable federal and California law and only for those positions for which such reports are legally permissible. Applicants shall receive all notices, disclosures, and authorizations required by law before such reports are obtained.

H. Verification of Information

The Agency may verify information provided by an applicant or employee during the employment process. Material omissions, falsifications, or misrepresentations may result in withdrawal of a conditional offer of employment, disciplinary action, or separation from employment, consistent with applicable law and Agency policy.

I. Evaluation of Background Check Reports

Information obtained through background check reports shall be reviewed only by individuals authorized to participate in the employment process. Background check reports shall be evaluated in a fair, consistent, and nondiscriminatory manner and shall be maintained as confidential records in accordance with this policy and applicable law.

Criminal history information shall be considered only in accordance with Section IV of this policy and applicable law. No employment decision shall be based on criminal history in a manner prohibited by applicable law.

~~In determining an Applicant's or employee's suitability for employment or when a change in job duties has been documented, the following will be considered:~~

~~A. Types of Back Check Investigations~~

- ~~1. Background checks may include, but are not limited to the following;~~
 - ~~a. Review of Applicant's or employee's criminal history, pursuant to the limitations established in California Labor Code §12952;~~
 - ~~b. Credit history, pursuant to the limitations established in California Labor Code § 1024.5;~~
 - ~~c. Review of DMV records;~~
 - ~~d. Initial and on-going drug and alcohol testing (as required under US Department of Transportation's policies and procedures);~~
 - ~~e. Verification of required license, certification and/or degree; and~~
 - ~~f. Verification of employment history.~~

~~B. Disclosure to the Applicant~~

- ~~1. Transit may obtain a background check report for employment purposes only when Transit certifies that:~~
 - ~~a. Written notice will be provided to the Applicant in clear and conspicuous disclosure that a consumer report may be obtained prior to procuring the background check report, in a document that consists solely for the disclosure;~~
 - ~~b. The Applicant must provide written consent for the employer to obtain a background check report; and~~
 - ~~c. Information from the consumer report shall not be used in violation of any state or federal equal employment opportunity law or regulation.~~

~~C. Pre Adverse Action (Step 1)~~

- ~~1. Before rejecting an Applicant based on information obtained in a background check report, Transit will follow a two-step adverse process required under the Fair Credit Reporting Act (FCRA). The first step shall include all of the following:~~
 - ~~a. Provide the Applicant with a copy of the consumer report that was obtained and relied upon to make the decision;~~
 - ~~b. Provide the Applicant with a copy of the FCRA's Summary of Your Rights Under the Fair Credit Reporting Act;~~
 - ~~c. Provide the Applicant contact information of the consumer reporting agency (CRA) or screening agency.~~
 - ~~d. The Applicant shall have five (5) business days to respond to dispute the finding within the report;~~
 - ~~e. If the Applicant notifies Transit within the five (5) business days disputing the accuracy of the report and the Applicant provides specific evidence that supports their claim, then the Applicant shall have an additional five (5) days to respond to the notice. Transit will consider the information submitted by the Applicant prior to making a final decision.~~

~~D. Adverse Action (Step 2)~~

- ~~1. If a final decision is made to rescind a job offer, Transit will provide the Applicant a second notice as required under FCRA, within three (3) business days that the decision was made regarding the adverse action. The second notice shall include the following information:
 - ~~a. Written notice that the job offer is withdrawn due to results of the background check;~~
 - ~~b. Contact information of the CRA or screening agency;~~
 - ~~c. Notification that the CRA or screening agency did not make the decision to pursue adverse action and will not have an explanation for the adverse action;~~
 - ~~d. Notification that the Applicant can request a second copy of their background check report within sixty (60) days; and~~
 - ~~e. Notification that the Applicant can still dispute the results of the background report and/or file a complaint with the Department of Fair Employment and Housing~~~~
- ~~2. If the Applicant requests a copy of a consumer report from Transit, within three (3) business days of receiving the Applicant's requests, together with proper identification, Transit must provide to the Applicant a copy of the report and a copy of the Applicant's rights pursuant to 15U.S.C. §1681g(c)(3).~~
- ~~3. When a background check report contains information regarding an Applicant or employee's criminal history, Transit shall ensure compliance with the laws governing the consideration of an Applicant's or employee's criminal history as discussed above.~~

VI. Employer Use of Consumer Credit Reports

El Dorado Transit does not routinely utilize consumer credit reports as part of its pre-employment background screening process.

Should the Agency determine that a consumer credit report is necessary for a specific position, such reports shall be obtained only when authorized by applicable federal and California law and only for positions in which the use of a consumer credit report is legally permissible, job-related, and consistent with [applicable legal requirements](#).

Prior to obtaining a consumer credit report, the Agency shall comply with all applicable notice, disclosure, authorization, and adverse action requirements established by applicable federal and California law.

Any consumer credit report obtained by the Agency shall be treated as confidential and shall be accessed, used, disclosed, maintained, retained, and destroyed only as authorized by applicable federal and California law and in accordance with the Agency's records retention requirements.

- ~~A. Transit shall not use a consumer credit report for employment purposes unless the position of the person for whom the report is sought is any of the following
 - ~~1. A managerial position~~
 - ~~2. That of a sworn peace officer or other law enforcement position;~~
 - ~~3. A position for which the information contained in the report is required by law to be disclosed or obtained;~~
 - ~~4. A position that involved regular access to all of the following types of information of any~~~~

- ~~one person;~~
 - ~~a. Bank or credit card account information~~
 - ~~b. Social security number(s)~~
 - ~~c. Date of birth;~~
 - ~~d. A position in which the person is, or would be, any of the following²~~
 - ~~i. A named signatory on the bank or credit card account of the employer;~~
 - ~~ii. Authorized to transfer money on behalf of the employer; and/or~~
 - ~~iii. Authorized to enter into financial contracts on behalf of the employer~~
 - ~~e. A position that involves access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons, who may obtain economic value from the disclosure or use of the information, and (ii) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information~~
- ~~5. A position that involves a regular access to cash totaling ten thousand dollars (\$10,000) or more of the employer, a customer, or client, during the workday.~~

VII. Failure to Disclose by Prospective Employees

Prospective employees are expected to provide complete, accurate, and truthful information throughout the employment process, including information provided on employment applications, supplemental questionnaires, post-conditional offer forms, background investigation documents, and during interviews or other employment-related inquiries.

A prospective employee who knowingly provides materially false, misleading, incomplete, or omitted material information, or who knowingly falsifies or misrepresents information related to employment qualifications, criminal history, education, employment history, professional licenses or certifications, driving record, or any other information lawfully requested by the Agency, may be disqualified from further consideration for employment or may have a conditional offer of employment withdrawn, to the extent permitted by applicable law. The Agency shall not treat an applicant's failure to disclose information that the applicant was not legally required or permitted to disclose as a misrepresentation or other adverse factor.

The Agency recognizes that applicants may inadvertently omit or inaccurately report information. Prior to making an adverse employment decision based upon an alleged omission or misrepresentation, the Agency may provide the prospective employee with an opportunity to clarify or correct the information when appropriate.

Nothing in this section shall prohibit the Agency from taking appropriate action when the Agency determines that an applicant has knowingly or intentionally falsified documents, submitted fraudulent information, altered official records, or otherwise engaged in deception during the employment process.

The Agency shall evaluate all relevant facts and circumstances before making a final determination under this section and shall ensure that any employment decision is made in a fair, consistent, and nondiscriminatory manner in accordance with applicable federal and California law.

When a background investigation reveals that a prospective employee who has applied for a position with Transit was dishonest by failing to disclose a conviction on their Post-Conditional Offer Criminal History Inquiry Form, the prospective employee will no longer be eligible for employment.

VIII. Addition of Job Classifications

As organizational needs change, the Agency may establish new job classifications or substantially modify the duties and responsibilities of existing classifications.

Prior to implementing a newly established classification or substantially modifying the duties of an existing classification, the Human Resources Manager shall evaluate the position to determine the appropriate pre-employment screening requirements, including any background check reports, fingerprint-based criminal history checks, driving record reviews, consumer credit reports, professional license verifications, drug and alcohol testing, or other legally authorized screening requirements applicable to the position.

The Human Resources Manager shall ensure that any required background check reports or pre-employment screening requirements are consistent with applicable federal and California law, the essential functions of the position, and any applicable job-relatedness, business necessity, or other legal standards governing the particular screening requirement, and Agency policy.

Any revisions to the Agency's background check requirements resulting from the creation of new job classifications or changes in applicable law may be implemented through administrative procedures, provided such revisions remain consistent with this Board Policy and applicable legal requirements.

Nothing in this section shall limit the Agency's authority to establish or modify minimum qualifications, pre-employment requirements, or background screening standards for any position as authorized by law.

Addition of New Job Classifications

A position that is not included in the list attached to this Board Policy shall be considered added if it is established by the Board of Directors at the time it adopts the job classification specification for the position that a DMV, Criminal Background Investigations or Credit check is required.

IX. Responsible Authorities

The successful administration of this policy requires the cooperation of Agency management, supervisors, employees, and individuals designated to administer background investigations and Criminal Offender Record Information (CORI). Responsibilities under this policy shall be assigned as follows:

A. Board of Directors

The Board of Directors shall establish and adopt policies governing background investigations, criminal history inquiries, consumer credit reports, Criminal Offender Record Information (CORI), and related employment practices. The Board shall retain authority to approve amendments to this policy as necessary to ensure compliance with applicable federal and California law.

B. Executive Director

The Executive Director shall have overall responsibility for ensuring Agency compliance with this policy and shall provide administrative oversight for its implementation.

The Executive Director may delegate administrative responsibilities under this policy as appropriate; however, such delegation shall not relieve the Executive Director of overall responsibility for ensuring compliance with applicable laws, regulations, and Agency policy.

C. Human Resources Manager

The Human Resources Manager shall be responsible for administering this policy and overseeing the Agency's background investigation process.

Responsibilities of the Human Resources Manager include, but are not limited to:

1. Coordinating pre-employment background investigations and criminal history inquiries;
2. Ensuring compliance with applicable federal and California employment laws;
3. Conducting or coordinating individualized assessments when required;
4. Maintaining employment records related to background investigations;
5. Coordinating required notices associated with criminal history reviews and consumer reports;
6. Ensuring confidential handling of criminal history information;
7. Recommending employment actions consistent with this policy; and
8. Coordinating with the Executive Director, legal counsel, the Custodian of Records, and other appropriate personnel regarding background investigation matters when necessary.

D. Custodian of Records

The Agency's designated Custodian of Records shall be responsible for receiving, maintaining, safeguarding, and controlling access to Criminal Offender Record Information (CORI) in accordance with California Department of Justice requirements.

Responsibilities include, but are not limited to:

1. Ensuring access to CORI is limited to authorized individuals with a legitimate business need;
2. Maintaining the confidentiality and security of criminal history information;
3. Ensuring proper storage, transmission, retention, and destruction of CORI;
4. Reporting actual or suspected CORI security incidents and ensuring appropriate response actions are taken in accordance with applicable DOJ requirements and other applicable law.
5. Maintaining required DOJ authorizations, certifications, and documentation; and
- 4-6. Coordinating required security awareness and related compliance activities applicable to CORI. —Performing all other duties required by applicable law and current DOJ requirements, including requirements relating to CORI security, dissemination, training, access, incident reporting, and destruction.

E. Managers and Supervisors

Managers and supervisors shall support the implementation of this policy by:

1. Maintaining the confidentiality of background investigation information;
2. Reporting any suspected misuse or unauthorized disclosure of confidential information;

3. Consulting with Human Resources regarding employment decisions involving background investigation information; and
4. Complying with all applicable Agency policies related to criminal history information and employment practices.

Managers and supervisors shall not independently obtain, review, retain, or disclose Criminal Offender Record Information unless specifically authorized to do so.

F. Employees

Employees who have authorized access to confidential background investigation information or Criminal Offender Record Information (CORI) shall:

1. Protect the confidentiality of such information;
2. Access information only as authorized and only for legitimate Agency business;
3. Immediately report any actual or suspected security incident, unauthorized access, loss, or disclosure of confidential information; and
4. Comply with all applicable federal and California laws, DOJ requirements, Agency policies, and security procedures governing criminal history information.

Failure to comply with the requirements of this policy may result in disciplinary action, up to and including termination of employment, and may subject the individual to civil or criminal penalties as provided by law.

Board of Directors:

~~The Board of Directors is responsible for reviewing and adopting all procedures within the Board Policy E-5. The policy establishes the types of background checks appropriate for specific job classifications, or positions within a classification, and the categories of crimes and consumer credit reports for which certain job applicants may be determined ineligible for employment by Transit.~~

A. Executive Director:

~~The Executive Director is responsible for periodic updates of the policy and for designating a Records Security Officer (RSO) who meets the State of California DOJ, Custodian of Records for Live Scan Service requirements.~~

B. Human Resources:

~~The Human Resources Department is responsible for:~~

- ~~1. Ensuring that Transit's employment application process complies with applicable laws regarding the disclosure of criminal background information / credit check.~~
- ~~2. Procuring a third party to administer fingerprinting of designated applicants on Live Scan equipment and obtain background screening reports for applicants and employees.~~
- ~~3. Ensuring written permission is obtained from individuals prior to obtaining a copy of their criminal history or credit report.~~
- ~~4. Provide written notification to individuals regarding their status in the hiring process.~~

- ~~5. Obtaining and maintaining the budget to support background checks.~~
- ~~6. Determining which job classifications and positions within classifications will be subjected to credit and/or criminal background checks.~~

X. Personally Owned Devices

Criminal Offender Record Information (CORI) shall not be accessed, processed, stored, transmitted, photographed, downloaded, copied, or maintained on personally owned computers, tablets, mobile phones, removable media, cloud storage services, or other personally owned electronic devices unless specifically authorized by the Agency's Custodian of Records and permitted under applicable DOJ requirements, the FBI CJIS Security Policy, and other applicable federal and California law. Any authorized use shall comply with all applicable security requirements.

XI. Electronic Transmission of CORI

CORI shall not be transmitted by unsecured electronic mail, text message, or other unencrypted electronic communication methods. Any authorized electronic transmission of CORI shall be conducted using methods and safeguards that comply with applicable DOJ requirements, the FBI CJIS Security Policy, and other applicable federal and California law.

XII. Security Incident Reporting

Any employee who becomes aware of an actual or suspected unauthorized access, disclosure, loss, theft, misuse, or compromise of Criminal Offender Record Information (CORI) shall immediately notify the Agency's Custodian of Records or Human Resources Manager.

Upon notification of an actual or suspected security incident involving CORI, the Custodian of Records shall promptly investigate the incident, implement appropriate corrective actions, document the incident, and make any notifications or reports required by DOJ requirements or other applicable federal or California law.

The Agency shall maintain documentation of all reportable security incidents and any corrective actions taken in accordance with applicable records retention requirements.

XIII. Attachments and Forms

The following attachments and forms are incorporated by reference into this policy and shall be maintained by the Human Resources Department. The Human Resources Manager, in coordination with the Agency's Custodian of Records when applicable, may revise Agency forms to reflect changes in applicable law, administrative procedures, or operational needs, provided such revisions do not alter the substantive requirements of this Board Policy. Official forms issued by the DOJ shall be maintained and used in the current version prescribed or approved by the DOJ, as applicable.

The following forms are associated with this policy:

- Attachment A – Pre-Employment Screening Requirements

- Attachment B – Post-Conditional Offer Criminal History Inquiry
- Attachment C – Individualized Assessment Worksheet
- Attachment D – Preliminary Notice of Potential Adverse Employment Action
- Attachment E – Final Notice of Adverse Employment Action
- California Department of Justice Employee Statement Form (BCIA 9006)

The Human Resources Manager shall ensure that all forms associated with this policy remain consistent with applicable federal and California law, California Department of Justice requirements, Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy requirements, and Agency administrative procedures.

When the Agency utilizes a third-party consumer reporting agency to obtain consumer reports or investigative consumer reports, the Agency shall use the disclosures, authorizations, notices, and forms required by applicable federal and California law [and the applicable consumer reporting agency's procedures](#).

Nothing in this section shall prohibit the Agency from creating additional administrative forms or revising existing forms as necessary to implement this policy, provided such revisions do not conflict with the provisions of this Board Policy.

~~Attachment A—Job Classifications and Level of Background Check Required~~

~~Attachment B—Post Conditional Offer Criminal History Inquiry Form~~

~~Attachment C—FCRA Authorization to Obtain Consumer Report~~

~~(Background or Credit Check)~~

Job-Classifications and Level of Background Check Required—

Job-Classification:	Reason:	Type:
Administrative-Coordinator	Access to IT and other agency-confidential information	Credit Check/Criminal-Background/Drug Testing
Custodian	Safety Sensitive	Criminal Background/DMV-Drug Testing
Equipment Technician-I/II	Safety Sensitive	Criminal Background/DMV-Drug Testing
Executive Director	Signatory on bank-account/Master Key Access	Credit Check/Criminal-Background/Drug Testing
Finance Manager	Fiduciary responsibility	Credit Check/Criminal-Background/Drug Testing
Fiscal Technician I/II	Fiduciary responsibility	Credit Check/Criminal-Background/Drug Testing
Human Resources-Manager	Custodian of Records; Drug & Alcohol Program-Manager/Master Key Access	Credit Check/Criminal-Background/Drug Testing
Maintenance & Facilities Supervisor	Safety Sensitive	Criminal Background/DMV-Drug Testing
Maintenance-Technician	Safety Sensitive	Criminal Background/DMV-Drug Testing
Office Assistant I/II	Access to confidential public-information	Drug Testing/ Criminal-Background
Operations Manager	Safety Sensitive/Master Key-Access	Drug Testing/Criminal-Background/Credit Check/DMV
Planning & Marketing-Manager	Safety Sensitive	Criminal Background/DMV-Drug Testing
Safety Coordinator	Safety Sensitive	Criminal Background/DMV-Drug Testing
Transit Dispatcher	Safety Sensitive	Criminal Background/DMV-Drug Testing
Extra Help Transit-Dispatcher	Safety Sensitive	Criminal Background/DMV-Drug Testing
Transit Operator	Safety Sensitive	Criminal Background/DMV-Drug Testing
Extra Help Transit-Operator	Safety Sensitive	Criminal Background/DMV-Drug Testing
Transit Operations-Supervisor	Safety Sensitive	Criminal Background/DMV-Drug Testing

POST-CONDITIONAL OFFER CRIMINAL HISTORY INQUIRY

Equal Employment Opportunity Policy: ~~We are committed to providing equal employment opportunities to all employees and applicants without regard to race, ethnicity, religion, color, sex (including childbirth, breast feeding and related medical conditions), gender, gender identity or expression, sexual orientation, national origin, ancestry, citizenship status, uniform service member and veteran status, pregnancy, age, protected medical condition, genetic information, disability or any other protected status in accordance with all applicable federal, state and local laws.~~

Name _____
 (Print) _____ Last _____ First _____ Middle _____

~~Have you ever pled guilty or “no contest” to, or been convicted of, a misdemeanor or felony?~~

~~[] Yes [] No~~

~~If yes, please give the date(s) and details:~~

~~Do not include minor traffic infractions, convictions for which the record has been sealed or expunged, any conviction for which probation has been successfully completed or otherwise discharged and the case has been judicially dismissed, referrals to and participation in any pretrial or post trial diversion programs, any conviction that has been judicially dismissed or ordered sealed, juvenile court adjudications, and misdemeanor-marijuana-related convictions that occurred over two years ago in answering these questions.~~

~~Have you been arrested for any matters for which you are currently out on bail or on your own recognizance pending trial? [] Yes [] No~~

~~If yes, please give the date (s) and details:~~

~~Answering “Yes” to the preceding questions will not result in an automatic bar to employment. Factors including the nature and gravity of the offense, the time that has passed since the offense and completion of your sentence, and the nature of the job will be considered. Further, if the Company tentatively decides to withdraw its offer of employment based on your criminal history you will be given an opportunity to submit evidence challenging the accuracy of the conviction record, to offer evidence of rehabilitation or mitigating circumstances, or both, before the decision becomes final.~~

~~I hereby state that all the information that I have provided on this form is true, complete and accurate. I understand that if the information I have provided is found to be false or incomplete in any respect, the conditional offer of employment will be withdrawn immediately, or if I am employed, I will be subject to immediate termination.~~

 Date

 Signature of Applicant

FCRA Authorization to Obtain a Consumer Report (Background/Credit Check)

Pursuant to the federal Fair Credit Reporting Act, I hereby authorize El Dorado Transit and its designated agents and representatives to conduct a comprehensive review of my background through a consumer report and/or an investigative consumer report to be generated for employment, promotion, reassignment or retention as an employee. I understand that the scope of the consumer report/investigative consumer report may include, but is not limited to, the following areas: verification of Social Security number; current and previous residences; employment history, including all personnel files; education; references; credit history and reports; criminal history, including records from any criminal justice agency in any or all federal, state or county jurisdictions; birth records; motor vehicle records, including traffic citations and registration; and any other public records.

I, _____, authorize the complete release of these records or data pertaining to me that an individual, company, firm, corporation or public agency may have. I hereby authorize and request any present or former employer, school, police department, financial institution or other persons having personal knowledge of me to furnish El Dorado Transit Authority or its designated agents with any and all information in their possession regarding me in connection with an application of employment. I am authorizing that a photocopy of this authorization be accepted with the same authority as the original.

I understand that, pursuant to the federal Fair Credit Reporting Act, if any adverse action is to be taken based upon the consumer report, a copy of the report and a summary of the consumer's rights will be provided to me.

Signature of Applicant

Date

Printed Name of Applicant

Pre-Employment Screening Requirements

Board Policy E-5

Background Investigations, Criminal History Inquiries, Criminal Offender Record Information (CORI), and Records Security

The following identifies the standard pre-employment screening requirements for prospective employees of the El Dorado County Transit Authority. Additional screening may be required based on the duties of the position, applicable federal or California law, or Agency policy.

Screening Requirement	Applies To
DOJ Live Scan / Criminal Background Check	Positions for which a fingerprint-based criminal history check is required or lawfully authorized and designated as a requirement for the position
Pre-Employment Physical Examination	Positions for which a physical examination is required or lawfully authorized
Pre-Employment Drug Test	Positions for which pre-employment drug testing is required or lawfully authorized
Employment Verification	All prospective employees, as applicable
Education / License Verification	Positions requiring a degree, certification, license, or other credential
DMV Driver Record Review	Positions requiring operation of an Agency vehicle or possession of a valid driver's license
DOT Physical Examination	All employees entering DOT safety-sensitive positions

Screening Requirement	Applies To
DOT Drug & Alcohol Testing Program	All employees entering DOT safety-sensitive positions
DOT Previous Employer Drug & Alcohol Inquiry	Applicants for DOT safety-sensitive positions who previously performed DOT-regulated safety-sensitive duties, in accordance with 49 CFR Part 40.25.
Consumer Credit Report	Only when authorized by applicable federal and California law and approved by the Agency for a position in which such reports are legally permissible

Notes

1. Prospective employees shall complete the background investigation and screening requirements applicable to the position, including a fingerprint-based criminal history check through the California Department of Justice (DOJ) when such a check is required or lawfully authorized and identified as a requirement for the applicable position. Applicants required to complete fingerprint-based criminal history background checks shall complete all California Department of Justice (DOJ) Live Scan forms, privacy notices, and acknowledgements required by the DOJ at the time of fingerprint submission.
2. For applicants entering **DOT safety-sensitive positions**, the Agency shall obtain the applicant's written authorization and request applicable DOT drug and alcohol testing history from prior DOT-regulated employers in accordance with **49 CFR Part 40.25**. The inquiry includes prior positive drug tests, alcohol test results of 0.04 or greater, refusals to test, other DOT drug and alcohol violations, and completion of any required return-to-duty process.
3. Applicants selected for positions requiring a Class B Commercial Driver License (CDL) with Passenger Endorsement who do not already possess the required license may, at the Agency's discretion, be provided Agency-sponsored

training to obtain the required license and endorsements. Employees in these positions shall successfully obtain and maintain the required CDL with Passenger Endorsement, a valid DOT Medical Examiner's Certificate, and comply with all applicable DOT drug and alcohol testing requirements as a condition of continued employment.

4. Additional pre-employment screening may be required when permitted or required by applicable federal or California law and applicable to the position.
5. El Dorado Transit does not routinely utilize consumer credit reports as part of its pre-employment screening process. Should the Agency determine that a consumer credit report is necessary for a specific position, it shall be obtained only as authorized by applicable federal and California law and in accordance with Board Policy E-5.

POST-CONDITIONAL OFFER CRIMINAL HISTORY INQUIRY

Equal Employment Opportunity Policy: El Dorado Transit is committed to providing equal employment opportunities to all employees and applicants without regard to race, ethnicity, religion, color, sex (including childbirth, breastfeeding, and related medical conditions), gender, gender identity or expression, sexual orientation, national origin, ancestry, citizenship status, uniform service member and veteran status, pregnancy, age, protected medical condition, genetic information, disability, or any other protected status in accordance with all applicable federal, state, and local laws.

Applicant Information: Name:

(Print) Last, First, Middle

Criminal History Disclosure

Pursuant to California Government Code § 12952 (Fair Chance Act), an employer may not consider or inquire into an applicant's criminal history before making a conditional offer of employment. The following inquiries are permitted only after a conditional offer has been extended.

Have you ever been **convicted** of a misdemeanor or felony?

☐ Yes ☐ No

If yes, please provide the date(s) and details of the conviction(s):

Important Exclusions:

In responding to this question, **DO NOT** include any of the following:

- Arrests that did not result in a conviction (except for pending charges under certain circumstances)
- Participation in a pretrial or post-trial diversion program
- Convictions that have been sealed, dismissed, expunged, or statutorily eradicated
- Juvenile adjudications (crimes committed under the age of 18)
- Non-felony marijuana-related offenses that are more than two years old

Pending Charges Disclosure:

Do you have any pending criminal charges for which you are out on bail or released on your own recognizance?

☐

Yes

☐

No

If yes, please provide the date(s) and details of the pending charge(s):

Applicant Rights and Fair Consideration:

Answering "Yes" will **not** result in automatic disqualification from employment. Factors considered include:

- The nature and gravity of the offense
- The time elapsed since the offense and completion of the sentence
- The nature of the job being sought

If El Dorado Transit tentatively decides to withdraw an offer of employment based on criminal history, you will be notified in writing and given an opportunity to:

1. Challenge the accuracy of the conviction record
2. Provide evidence of rehabilitation or mitigating circumstances
3. Submit additional information before the final decision is made

I hereby affirm that all information provided is true, complete, and accurate. I understand that providing false or incomplete information may result in withdrawal of the conditional offer or termination of employment.

Date

Signature of Applicant



Attachment C

Individualized Assessment Worksheet

Board Policy E-5

Background Investigations, Criminal History Inquiries, Criminal Offender Record Information (CORI), and Records Security

Applicant Information

Applicant Name: _____

Position Applied For: _____

Department: _____

Date of Conditional Offer: _____

Date Criminal History Reviewed: _____

Criminal History Information Reviewed

Describe the conviction(s) being evaluated:

Individualized Assessment

Prior to making an adverse employment decision based on criminal history, El Dorado Transit shall conduct an individualized assessment in accordance with Board Policy E-5 and applicable federal and California law.

1. Nature and Gravity of the Offense

Describe the nature and seriousness of the conviction(s):



2. Time Passed Since the Offense or Completion of Sentence

Date of Conviction: _____

Date Sentence Completed (if applicable): _____

Time elapsed since the offense or conduct and (if applicable) completion of the sentence:

Comments:

3. Nature of the Position

Describe the essential functions and responsibilities of the position.

4. Relationship Between the Conviction and the Position

Does the nature of the conviction have a direct and adverse relationship to one or more specific duties of the position? ☐ Yes

☐ No

If yes, explain:



5. Applicant Response

Did the applicant provide additional information?

☐ Yes

☐ No

If yes, describe the information considered:

☐ Evidence of rehabilitation

☐ Employment history

☐ Education or training

☐ Character references

☐ Community involvement

☐ Mitigating circumstances

☐ Other: _____

Summary:

6. Additional Factors Considered

Assessment Determination

☐ Criminal history is **not disqualifying**.

☐ Proceed with employment.



☐ Additional information required.

Explain:

☐ Preliminary determination that criminal history may disqualify the applicant.

Proceed with Attachment D – Preliminary Notice of Potential Adverse Employment Action.

Final Determination

☐ Conditional Offer Maintained

☐ Conditional Offer Withdrawn

Reason:

Review

Completed By:

Name: _____

Title: _____

Date: _____

Reviewed By (if applicable):

Name: _____

Title: _____



Date: _____

Confidential

This document contains confidential employment information and shall be maintained separately from the employee's personnel file. Access shall be limited to authorized individuals with a legitimate business need in accordance with Board Policy E-5 and applicable federal and California law.



EL DORADO TRANSIT

EL DORADO TRANSIT

6565 Commerce Way

Diamond Springs, CA 95619

Attachment D

Board Policy E-5

Preliminary Notice of Potential Adverse Employment Action

Date: _____

Applicant: _____

Position: _____

Department: _____

Dear _____,

Thank you for your interest in employment with El Dorado Transit.

Following your conditional offer of employment, the Agency conducted a criminal history review in accordance with Board Policy E-5 and applicable federal and California law.

Based upon the information received, El Dorado Transit has made a **preliminary determination** that the conviction history identified below may disqualify you from the position identified above. **This is not a final employment decision.**

The conviction(s) that formed the basis for this preliminary determination are:

Before making a final determination, the Agency is providing you with an opportunity to respond to the information being considered.

You May Submit Information Including:

- Information challenging the accuracy or completeness of the criminal history record;
- Evidence of rehabilitation or good conduct;



EL DORADO TRANSIT

- Information regarding the circumstances surrounding the conviction(s);
- Employment history following the conviction(s);
- Educational achievements, training, or certifications;
- Character references; and
- Any other information you believe the Agency should consider.

If the Agency relied upon a criminal history report or other criminal history information, a copy is enclosed, to the extent required by applicable law.

Your response must be received no later than:

Response Due Date: _____

You will have no less than five (5) business days from receipt of this notice to submit your response. If you notify the Agency in writing that you are disputing the accuracy of the criminal history information and are taking steps to obtain supporting documentation, the Agency will provide the additional time required by applicable law before making a final employment decision.

Responses may be submitted to:

Human Resources Manager

El Dorado Transit

6565 Commerce Way

Diamond Springs, CA 95619

sahart@eldoradotransit.com

If you notify the Agency that you are disputing the accuracy of the criminal history information and are taking steps to obtain supporting documentation, the Agency will provide the additional time required by applicable law before making a final employment decision.

The Agency will consider any timely information you submit before making a final determination, including information concerning the accuracy of the conviction history and evidence of rehabilitation or mitigating circumstances. The Agency will complete any individualized assessment required by applicable law before making a final adverse employment decision based on conviction history.



EL DORADO TRANSIT

After considering any information you submit, the Agency will make a final determination and notify you in writing.

If no response is received by the date listed above, the Agency will proceed with its final review based upon the information available.

Sincerely,

Steffi Ahart
Human Resources Manager
El Dorado Transit

Attachments Provided

- ☐ Copy of criminal history report or other criminal history information relied upon (when required or permitted by law)
 - ☐ Copy of Board Policy E-5, if requested
 - ☐ Other:
-
-

Agency Use Only

Date Issued: _____

Method of Delivery:

- ☐ U.S. Mail
- ☐ Certified Mail
- ☐ Email
- ☐ Hand Delivered

Issued By: _____



EL DORADO TRANSIT

EL DORADO TRANSIT
6565 Commerce Way
Diamond Springs, CA 95619

Attachment E
Board Policy E-5

Final Notice of Adverse Employment Action

Date: _____

Applicant Name: _____

Position Applied For: _____

Dear _____,

Thank you for your interest in employment with El Dorado Transit.

Following the conditional offer of employment for the position identified above, the Agency conducted a criminal history review in accordance with Board Policy E-5 and applicable federal and California law.

On _____, you were provided with a **Preliminary Notice of Potential Adverse Employment Action** and given the opportunity to respond to the criminal history information under consideration. The Agency has carefully considered all available information, including any response or documentation you submitted.

After completing the required individualized assessment and considering the information you provided, El Dorado Transit has determined that the criminal history information has a direct and adverse relationship to one or more of the specific duties of the position. Accordingly, the Agency is withdrawing its conditional offer of employment.

This decision was based upon consideration of the following factors:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense or completion of the sentence;
- The nature and responsibilities of the position;
- Information provided by you, if any, regarding rehabilitation, mitigating circumstances, employment history, education, training, or other relevant factors; and
- Any other factors required or permitted by applicable law.



EL DORADO TRANSIT

This decision applies only to the position identified in this notice and does not prohibit you from applying for future employment opportunities with El Dorado Transit, unless otherwise prohibited by law or Agency policy.

If you believe this decision was based on inaccurate conviction history information, that the Agency did not consider information you timely submitted, or that the Agency otherwise failed to comply with applicable law, you may contact the Human Resources Manager using the information below. You may also file a complaint with the California Civil Rights Department (CRD) regarding an alleged violation of applicable fair employment laws. **Human Resources Manager**

El Dorado Transit
6565 Commerce Way
Diamond Springs, CA 95619
Email: sahart@eldoradotransit.com

Thank you for your interest in employment with El Dorado Transit, and we wish you success in your future endeavors.

Sincerely,

Steffi Ahart
Human Resources Manager
El Dorado Transit

**Agency Use Only****Date Preliminary Notice Issued:** _____**Date Applicant Response Received (if applicable):** _____☐ No response received☐ Response reviewed prior to final determination**Individualized Assessment Completed:** ☐ Yes ☐ No**Final Determination Date:** _____**Issued By:** _____**Method of Delivery:**☐ U.S. Mail☐ Certified Mail☐ Email☐ Hand Delivery

Confidential

This document contains confidential employment information and shall be maintained separately from the employee's personnel file. Access shall be limited to authorized individuals with a legitimate business need in accordance with Board Policy E-5 and applicable federal and California law.