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## Alameda-Contra Costa Transit District

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### Administrative Regulation No. 202A: Background Checks for Employment

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**Issuing Officer:** General Manager

**Date of Adoption:** July 26, 2017

**Most Recent Amendment:** N/A

**See Also:** 202

**Subject Category:** Section 200, Human Resources

**Subsection:** General

**Control Department(s):** General Counsel, Human Resources

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#### I. PURPOSE

The Alameda-Contra Costa Transit District (“AC Transit” or “District”) is committed to protecting its passengers, employees, and assets by conducting background checks. In some instances, background checks are 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. In some instances, a background check may be required for a current employee whose classification specification has been revised to include new assigned functions that are either safety sensitive or allow the employee new access to District assets.

Background checks for employment 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.

AC Transit’s Board of Directors authorizes the General Manager or designee to acquire state and federal criminal history and, for selected positions, pre-employment consumer credit information. Further, the Board has granted the General Manager the authority to authorize and adopt Administrative Regulations for administering and implementing the policy and to adopt procedures to secure confidentiality of such information gathered during background investigations.

The General Manager 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 District.

AC Transit’s Board Policy 118, this General Manager’s Administrative Regulation, 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. PERSONS AFFECTED

This Administrative Regulation applies to all District employees and applicants who are subject to the background investigation process.

### III. DEFINITIONS

**“Applicant”:** A person who is being considered for employment with AC 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 AC Transit in a different job capacity, or has been previously employed by AC Transit in any capacity.

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

**“Background Check or Background Investigation”:** The process of legally obtaining and compiling criminal, commercial, and/or financial records and verification of employment qualifications for applicants or employees transitioning to a designated job classification.

**“Background Check Review Committee” or “the Committee”:** Refers to the group of District staff members selected by the General Manager or designee, including staff from the General Manager’s Office/Equal Employment Opportunity (EEO) Compliance Office; the General Counsel’s office and Human Resources; who are tasked with the review of applications, criminal background checks, and credit histories of applicants and/or employees for designated classifications and positions.

**“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”:** A copy or a report that may, or may not be obtained by a Third Party background screening agency, that details an applicant’s or employee’s credit history. The report may include details such as the age of the items within the credit history, the total number of active lines of credit, the total dollar amounts owed on outstanding debt(s), payment history, and any bankruptcy filings, judgments and liens. It may also include a credit score.

Jobs requiring a consumer credit report fall into three categories:

- 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. Conviction information concerning a referral to, and participation in, any diversion program;
- B. Information concerning convictions that have been judicially ordered sealed, expunged, or statutorily eradicated.
- C. Information relating to any misdemeanor conviction for which probation has been successfully completed or otherwise discharged and the case judicially dismissed pursuant to California Penal Code Section 1203.4; or California Penal Code Section 48852.13 certificate of rehabilitation; or information relating to certain marijuana convictions precluded by Labor Code Section 432.8.

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 a broad classification may be designated based upon the representative functions enumerated in the classification specification, or specific functions of a position enumerated in the Job Announcement. The Human Resources Department makes all such designations, which may be reviewed by the General Counsel’s Office. The current Designated Classification/Position list is attached.

**“Felony”:** Defined by current legal standards.

**“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 AC 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 General Manager, 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. REGULATION

##### A. Denial of Employment

1. No applicant for employment with AC Transit will be summarily disqualified from employment based solely on criminal conviction and/or a negative consumer credit report. AC Transit shall consider an applicant’s prior criminal records and/or consumer credit report among multiple factors in making individual hiring decisions. AC Transit shall evaluate each applicant on a case-by-case basis to determine if the particular circumstances of the conviction(s) or credit history indicate whether or not the applicant is suitable for employment.
2. In determining whether there is a nexus between the applicant’s criminal record and/or consumer credit report, and the job duties of the applied for job classification, the following will be considered:
  - a. The nature of the criminal conduct and/or consumer credit report at issue;
  - b. The length of time since the criminal conviction and/or negative consumer credit information in relation to the time of the job application;
  - c. The degree of rehabilitation evidenced by the applicant;
  - d. The circumstances under the crime(s) was (were) committed, and/or adverse entries on consumer credit report history occurred, including any mitigating circumstances; and
  - e. Whether the nature of the conviction(s) and/or negative consumer credit information 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 AC Transit’s employees or assets.

3. If AC Transit determines that a nexus exists between the criminal conduct and/or consumer credit report at issue, and the particular duties of the position or promotional opportunity, and a business necessity is established; AC Transit may deny employment to the applicant.

#### **B. Types of Background Check Investigations**

1. Background checks may include but are not limited to the following:
  - a. Review of an applicant's or employee's criminal history;
  - b. Review of credit history;
  - c. Review of DMV records;
  - d. Initial and on-going drug and alcohol testing (as required under US Department of Transportation guidelines, and in accordance with AC Transit's policies and procedures);
  - e. Verification of required license, certification and/or degree; and
  - f. Verification of employment history.
2. Information obtained during the background check shall be used to determine an applicant's or employee's suitability for employment.

#### **C. Procedures**

1. When a background check reveals negative information: The Committee will be notified when an applicant's or employee's criminal background check lists conviction(s), and/or credit report contain negative information, will review that information, and then make a final determination regarding the individual's suitability for employment in the position(s) for which s/he has applied.
2. 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. Convictions: The Committee will consider among other relevant factors; the specific duties of the position, the applicant's employment history, the number of convictions and circumstances of each, the age of the conviction(s), and whether or not the conviction(s) were disclosed.
  - b. Pending Charge: If a criminal charge is still pending at the time of the review by the Committee, 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 by the Committee.

#### **D. Failure To Disclose by Current Employees:**

1. When a background investigation reveals that an employee who has applied for a promotion was dishonest by failing to disclose a conviction on his/her original application for employment:

Existing employees who apply for a promotion will be subject to a criminal background and/or credit investigation as required by the promotional job classification. Employees who were dishonest by failing to disclose a felony conviction on their original application for employment may be subject to discipline as follows:

- a. Employees who have been employed with the District seven (7) or more years and have failed to disclose a misdemeanor conviction on his/her original application for employment will not be eligible for the subject promotion but will not be subject to discipline.
  - b. Employees who have been employed with the District less than seven (7) years who fail to disclose a misdemeanor or felony conviction on his/her original application will not be eligible for the subject promotion and may be subject to discipline up to and including termination. The matter will be referred to the General Counsel's Office for review.
  - c. Employees who have been employed with the District for seven (7) or more years who have failed to disclose a felony conviction on his/her original application will not be eligible for the subject promotion and may be subject to discipline up to and including termination. The matter will be referred to the General Counsel's Office for review.
2. When a background investigation reveals that an employee who has applied for a promotion was dishonest by failing to disclose a conviction on his/her promotional application for employment the employee may be subject to discipline as follows:
    - a. Employees who have been employed with the District seven (7) or more years and have failed to disclose a misdemeanor conviction on his/her promotional application for employment will not be eligible for the subject promotion but will not be subject to discipline.
    - b. Employees who have been employed with the District less than seven (7) years who fail to disclose a misdemeanor or felony conviction on his/her promotional application will not be eligible for the subject promotion and may be subject to discipline up to and including termination. The matter will be referred to the General Counsel's Office for review.
    - c. Employees who have been employed with the District for seven (7) or more years who have failed to disclose a felony conviction on his/her promotional application will not be eligible for the subject promotion and may be subject to discipline up to and including termination. The matter will be referred to the General Counsel's Office for review.
  3. When an employee who has applied for a promotion was honest by disclosing a conviction on his/her promotional application for employment that occurred after the

original date of hire, the employee will not be eligible for promotion if the conviction causes the employee to not be suitable for the position he/she applied. The employee will not be subject to any discipline unless the nature of the conviction makes the current employee ineligible for his/her current position.

**E. Failure To Disclose by Prospective Employees:**

1. When a background investigation reveals that a prospective employee who has applied for a position with the District was dishonest by failing to disclose a conviction on his/her application for employment, the prospective employee will cease to be eligible for employment.

**F. Inclusion of New Classification Specifications:**

1. A position that is not included in the list attached to this Administrative Regulation shall be deemed included if it is determined by the Board of Directors at the time it adopts the classification specification for the position that a DMV, Criminal Background Investigation or Credit check is required.

**V. RESPONSIBILITIES**

**A. Board of Directors:**

The Board of Directors has adopted Board Policy 202 and is responsible for periodically updating it. 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 employment by AC Transit.

**B. General Manager:**

The General Manager is responsible for designating a Records Security Officer (RSO) who meets the State of California – DOJ, Custodian of Records for Live Scan Service requirements.

GM/Equal Employment Opportunity (EEO) Compliance Office: The General Manager has designated the EEO Compliance Program Administrator as Records Security Officer, serves as the primary DOJ Custodian of Records, and serves on the Committee. EEO Compliance is also responsible for monitoring compliance with applicable laws regarding discrimination in the process.

**C. Human Resources/Staffing:**

The Human Resources Department is responsible for:

1. Ensuring that the District’s employment application process complies with applicable laws regarding the disclosure of criminal background information / credit check.
2. Fingerprinting designated applicants and/or employees on Live Scan equipment or obtaining a third party to provide 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. Serving as a member of the Background Check Review Committee.
7. Determining which job classifications and positions within classifications will be subjected to credit and/or criminal background checks.

**D. General Counsel’s Office:**

The General Counsel’s Office is responsible for providing an attorney to serve as a member of the Background Check Review Committee and providing legal analysis and updates as required.

**VI. ATTACHMENTS**

Job Classifications and Level of Background Check Required

Approved by:



Michael A. Hursh, General Manager  
Alameda-Contra Costa Transit District

Job Title	Union Code	DMV	CBI	Credit
Accessible Services Manager	AFS		x	
Accessible Services Specialist	AFS		x	
Accounting Manager	AFS		x	
Administrative Assistant	AFS			
Administrative Coordinator	AFS			
Apprentice Mechanic	ATU	x	x	
Apprentice Mentor	ATU	x	x	
Assistant Director of Maintenance	UR		x	
Assistant Director of Transportation	UR		x	
Assistant District Secretary	UR			
Assistant General Counsel	UR			
Assistant Schedule Analyst	ATU			
Assistant Transportation Planner	AFS			
Asst Transp Superintendent	AFS			
Associate Management Analyst	AFS			
Attorney II	UR			
Attorney III	UR			
Attorney IV	UR			
Bindery Worker	ATU			
Body/Frame Mechanic	ATU	x	x	
Budget Manager	UR		x	x
Bus Operator	ATU	x	x	
Bus Stop Maintenance Worker	ATU			
Buyer	AFS		x	
Capital Planning & Grants Manager	UR		x	x
Chief Dispatcher	ATU			
Chief Financial Officer	UR		x	x
Chief Information Officer	UR		x	x
Chief Operating Officer	UR		x	x
Claims & Liability Admin	AFS		x	
Computer Operations Administrator	AFS		x	
Contracts Compliance Administrator	AFS		x	
Contracts Services Manager	UR		x	
Contracts Specialist	AFS		x	
Controller	UR		x	x
Customer Service Clerk	ATU		x	
Customer Services Manager	AFS		x	
Customer Services Supervisor	AFS		x	
Database Administrator	AFS		x	
Digital Communications Specialist	AFS			
Dir of Legis Aff & Comm Rel	UR			
Dir of Prj Ctrl & Sys Analysis	UR			
Director of Bus Rapid Transit	UR		x	
Director of Capital Projects	UR		x	
Director of Environmental Tech	UR			
Director of Facilities & Construction	UR			
Director of Information Technology	UR		x	
Director of Maintenance	UR		x	
Director of Management & Budget	UR		x	x
Director of Operations Support	UR			
Director of Revenue Management	UR		x	x
Director of Srvc Devl&Planning	UR			
Director of Systems & Software Dev	UR		x	
Director of Transportation	UR		x	
Dispatcher	ATU			
District Secretary	UR			
Div Senior Clerk/Maintenance	ATU			
Division Clerk	ATU			
EEO Program Administrator	UR			
Electrician	IBW		x	

Job Title	Union Code	DMV	CBI	Credit
Electronic Support Worker	IBW		x	
Electronic Systems Supervisor	AFS			
Enterprise Network Engineer	AFS		x	
Enterprise Software Engineer	AFS		x	
Environmental Compliance Specialist	AFS			
Executive Administrative Asst.	UR			
Executive Coordinator	UR			
Executive Director of Human Resources	UR		x	x
Executive Director of Safety, Security & Training	UR		x	x
Executive Director of Planning & Engineering	UR		x	x
Executive Director of External Affairs, Marketing & Communications	UR		x	x
External Affairs Representative	AFS			
Facilities Maintenance Manager	AFS		x	
Facilities Maintenance Supervisor	AFS		x	
Facilities Maintenance Trainer	ATU			
Facilities Systems Technician	IBW		x	
Financial Analyst	AFS		x	
Frame/Body Mechanic	ATU	x	x	
General Counsel	UR		x	x
General Manager	UR		x	x
General Services Manager	UR		x	
Graphic Arts/Comput Typesetter	ATU			
Help Desk Coordinator	AFS		x	
Human Resources Administrator	UR			
Human Resources Analyst	AFS			
Human Resources Assistant	AFS			
Human Resources Manager	UR			
Hvac Technician	IBW		x	
Information Sevices Support Manager	UR		x	
Information Systems ProjectMgr	AFS		x	
Internal Audit Manager	UR		x	
Internal Auditor	UR		x	
Inventory Control Clerk	ATU		x	
Janitor	ATU		x	
Journey Facil Mtce Mechanic	ATU		x	
Journey Level Mechanic	ATU	x	x	
Labor Relations Representative	UR			
Labor Relatns Administrator	UR			
Labor & Employee Relations Manager	UR			
Lead Customer Service Clerk	ATU		x	
Lead Timekeeper	ATU			
Learning & Development Administrator	AFS			
Legal Assistant	AFS			
Lift Mechanic	ATU	x	x	
Machinist	ATU		x	
Mail Clerk	ATU	x	x	
Mail Messenger	ATU	x	x	
Maintenance Superintendent	UR		x	
Maintenance Supervisor	AFS	x	x	
Maintenance Technical Supervsr	AFS			
Maintenance Trainer	ATU	x	x	
Management Analyst	UR			
Manager of Special Projects & Services	AFS		x	
Manager of Systems Analysis	UR			
Marketing Administrator	AFS			
Materials Superintendent	AFS		x	
Materials Supervisor	AFS		x	
Mechanic A / Unit Room	ATU	x	x	
Media Affairs Manager	UR			
Mgr of Safety & Envrnmtnl Engr	UR			

Job Title	Union Code	DMV	CBI	Credit
Mktg./ Communications Mgr.	AFS			
Mktg./Communications Director	UR			
Network Security Engineer	AFS		x	
Network/PC Analyst	AFS		x	
Network/Server Administrator	AFS		x	
Network/Server Engineer	AFS		x	
Ops Data Syst Administrator	AFS			
Painter A	ATU			
Parts Clerk	ATU	x	x	
Payroll Assistant	AFS		x	
Payroll Manager	UR		x	
Payroll Specialist	AFS		x	
Peoplesoft Engineer	AFS		x	
Planning Data Analyst	AFS			
Planning Data Administrator	AFS			
Pre-Apprentice Mechanic - OTC	ATU	x	x	
Principal Financial Analyst*	AFS/UR		x	
Print Shop Supervisor	AFS			
Printer	ATU			
Printing Press Operator	ATU			
Procurement & Matrls Director	UR		x	x
Procurement Systems Coord	AFS			
Project Controls Administrator	AFS			
Project Coordinator	AFS			
Project Manager	UR		x	
Protective Services Manager	UR		x	
Public Info Systems Coord	AFS			
Public Information SystemsAsst	AFS			
Purchasing Manager	AFS		x	
Real Estate Manager	UR		x	
Retirement Sys Administrator	AFS			
Retirement System Analyst	AFS			
Retirement System Assistant	AFS			
Retirement System Manager	UR			
Safety Administrator	AFS			
Safety Representative	AFS			
Schedule Analyst	ATU			
Scheduling Data Administrator	AFS			
Senior Account Clerk	ATU		x	
Senior Administrative Asst.*	AFS/UR			
Senior Administrative Clerk	ATU			
Senior Advisor	UR			
Senior Body Mechanic	ATU	x	x	
Senior Capital Planning Spec.	AFS		x	
Senior Claims Representative	AFS			
Senior Clerk	ATU			
Senior Electronic Technician	IBW		x	
Senior Financial Analyst	AFS		x	
Senior Grants Administrator	AFS		x	
Senior Human Resources Analyst*	AFS/UR			
Senior Legal Assistant	AFS			
Senior Maintenance Supervisor	AFS	x	x	
Senior Management Analyst	UR			
Senior Payroll Specialist	AFS		x	
Senior PeopleSoft Engineer	AFS		x	
Senior Project Manager	UR		x	
Senior Schedule Analyst	ATU			
Senior Transportation Planner	AFS			
Senior Typist Clerk	ATU			
Service Employee	ATU	x	x	

Job Title	Union Code	DMV	CBI	Credit
Service Planning Manager	UR			
Shipping/Receiving Clerk	ATU		x	
Small & Med Duty Veh Mechanic	ATU	x	x	
Social Media Coordinator	AFS			
Software Engineer	AFS		x	
Sr. Buyer	AFS		x	
Sr. Employee Development Rep	AFS			
Sr. Fin Analyst-Budget	AFS		x	
Sr. Fin Analyst-Fin Reporting	AFS		x	
Sr. Fin Analyst-FixedAssetGrnts	AFS		x	
Sr. HR Info Systems Analyst	AFS			
Sr. Human Resources Admin	UR			
Sr. Marketing Representative	AFS			
Sr. Network/PC Analyst	AFS		x	
Sr. Transportation Supervisor	AFS	x	x	
Statistical Data& Info Analyst	AFS			
Technical Services Manager	AFS		x	
Telecomm Administrator	AFS		x	
Telecommunications Coord.	AFS		x	
Timekeeper	ATU			
Traffic & Schedules Admin.	AFS			
Traffic Engineer	AFS			
Training & Education Asst Mgr	AFS	x	x	
Training And Education Mgr	UR		x	
Training Instructor	AFS	x	x	
Transit Office Manager	AFS			
Transit Projects Supervisor	AFS			
Transit Schedules Manager	AFS			
Transportation Planner	AFS			
Transportation Planning Mgr	AFS			
Transportation Superintendent	UR		x	
Transportation Supervisor	AFS	x	x	
Transportation Supervisor Asst	AFS		x	
Treasury Administrator	AFS		x	x
Treasury Manager	UR		x	x
Upholsterer A	ATU			
Waste Clean Up Worker	ATU			
Welder/Sheetmetal Mechanic A	ATU		x	
Welder/Sheetmetal Mechanic AA	ATU		x	
Wellness Coordinator	AFS			
Yard Scrubber Equipt Operator	ATU			
*Some positions in this class may be non-represented				