

## **Administrative Procedures for Obtaining Unescorted Access to Radioactive Materials of Concern**

### **Background:**

The Nuclear Regulatory Commission Order EA-07-305 and the New York City Department of Health Notice ORH 2008-01, have established new mandatory guidelines regarding increased controls for unescorted access to radioactive sources of concern. These controls require that unescorted access to high-activity radioactive sources will only be approved for “trustworthy and reliable individuals who have a job-related need”. These mandates include fingerprint submission and a Federal Bureau of Investigation (“FBI”) criminal history records check for any individual who has or is seeking to have unescorted access to certain radioactive materials in quantities of concern. Individuals without such approval may only access the restricted areas when accompanied at all times by someone who has unescorted access privileges.

Fingerprinting and a background check are required for all individuals seeking unescorted access. The background check will cover the last seven years preceding the date of the background check or since the individual’s eighteenth birthday, whichever is shorter. The background check will include employment history, education, references, and a federal criminal history records check.

In compliance with this law, fingerprints of the affected individuals will be taken by the Columbia University Public Safety Department and submitted by Columbia University’s Reviewing Officials through the NRC to the FBI. The information received back from the FBI will be reviewed and confidentially considered by the Reviewing Officials in conjunction with the trustworthiness and reliability requirements in determining whether to grant the requested unescorted access. Prior to any final adverse determination the Reviewing Officials will make available to the individual the contents of any criminal records concerning that individual obtained from the FBI for the purpose of assuring correct and complete information. Columbia University may not disclose the record of personal information collected and maintained to persons other than the individual, his/her representative or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to certain radioactive material.

### **The Appointed Reviewing Officials for Columbia University are:**

**Thomas de Leon, Director, HR Systems and Operations**

**Brenda Arthur, Administrative Coordinator, HR Operations**

The Reviewing Officials’ responsibility is to make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive material. Only those individuals who have successfully completed the required training, fingerprinting screening process and background check (if applicable) will be able to work unsupervised in certain restricted areas containing radioactive materials.

The cost associated with the FBI criminal history records check is \$26 per applicant. **These costs will be the responsibility of each PI or the relevant Department.**

### **Procedures:**

Principal Investigator (P.I.) will request an Unescorted Access Privilege packet from CUMC Human Resources (CUMC HR) by calling the main line at 212-305-4357, and choosing option #1 or by emailing Thomas de Leon at [td2248@cumc.columbia.edu](mailto:td2248@cumc.columbia.edu) or Brenda Arthur at [bla2107@cumc.columbia.edu](mailto:bla2107@cumc.columbia.edu).

The packet will include the following items:

- The Request for Unescorted Access Privilege Application (to be completed by the applicant and authorized by the applicant's Supervisor/PI/Department Administrator and the device owner.)
- Background Investigation, Fingerprinting and FBI Criminal History Record Check Authorization Form (to be completed by the applicant)
- NRC Order imposing fingerprinting

Please return the packet, once it is completed, in a confidential envelope and include a copy of the applicant's resume, to CUMC HR located in the Black Building, Room 101, addressed to Thomas de Leon or Brenda Arthur. CUMC HR will then begin to process the application.

#### Steps:

- CUMC HR will review the documentation in the packet to ensure completion.
- The applicant will be notified to complete TC2500 Increased Control of Radioactive Materials and Unescorted Access training in RASCAL. Upon completion, the applicant will send a copy of the completion certificate to the Reviewing Official. Access will not be granted unless the training has been completed.
- Background check will be conducted by a University designated third party vendor. Please be advised that background checks, depending on where the verifications are done (domestic vs. international) can vary between 1 to 4 weeks.
- The Reviewing Official will contact the applicant to precede to Public Safety, located in the Black Building, Room 109, to have fingerprinting administered.
- The Reviewing Official will advise Public Safety to process fingerprints for the applicant, through written authorization.
- Public Safety will verify the true identity of the individual by reviewing the individual's official identification document (e.g., driver's license, passport, government identification, certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information.
- Public Safety will make a copy of the individual's identification document and certify in writing that the document was properly reviewed. The certified copy will be forwarded to the Reviewing Officials along with the fingerprinting cards.
- Once the fingerprinting card and certified copy of the individual's identification document are obtained from Public Safety, the Reviewing Official will proceed with sending the fingerprinting card to the Nuclear Regulatory Commission (NRC), who will then review and forward to the Federal Bureau of Investigations (FBI).
- The FBI will conduct a criminal history record check and send results to the NRC.
- The NRC will then send results to the Reviewing Officials (please note that the fingerprinting process can take up to 2 weeks from the initial date it is submitted to the NRC).
- Upon completion of the background investigation and FBI criminal history records check, the Reviewing Official will review the results and determine the applicant's trustworthiness and reliability.
- If the applicant has been determined to be trustworthy and reliable, the Reviewing Official will notify the applicant's Supervisor, Public Safety, the Radiation Safety Office and the device owner that unescorted access has been granted.

- Unescorted access will **NOT** be granted unless all of the above are completed.
- Questionable results will be reviewed by a committee that will consist of General Counsel, the Reviewing Officials, Public Safety and Radiation Safety for final determination
- Reviewing Officials maintain a current list of approved individuals. This list is reviewed regularly on a monthly basis and updated immediately when new access is granted or when termination requests are received.

## **Appeal Process:**

### **(Right to Correct and Complete Information)**

Prior to any final adverse determination, the Reviewing Officials shall make available to the applicant the contents of any criminal records obtained from the Federal Bureau of Investigation (FBI) for the purpose of assuring correct and complete information. If, after reviewing the record, an applicant believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700. The Reviewing Officials will provide ten (10) days for the applicant to initiate an action challenging the results of an FBI identification and criminal history records check after the record has been made available for his/her review.

In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that the agency verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency.

The Reviewing Officials along with a committee that will consist of the advisement of General Counsel, Public Safety and pertinent departments (i.e. Faculty Affairs and/or Student Affairs) may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon final adverse determination on unescorted access to certain radioactive material, the Reviewing Officials shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process. The employment status of an individual who is pursuing the review process will be handled on a case by case basis in light of operational needs (with alternatives including, but not limited to, temporary re-assignment where feasible or being placed on an administrative leave).

## **Guidelines for Evaluating Unescorted Access Privileges:**

Unescorted access determinations require an evaluation of a person's trustworthiness and reliability. When a person's life history shows evidence of unreliability or untrustworthiness, questions arise whether the person

can be relied on and trusted to exercise the responsibility necessary for working with risk-significant radioactive materials.

In evaluating the relevance for an individual's conduct, the Reviewing Official will consider the following factors:

- The nature, extent, and seriousness of the conduct;
- The circumstances surrounding the conduct, to include knowledgeable participation;
- The frequency and recentness of the conduct;
- The individual's age and maturity at the time of the conduct;
- The extent to which participation is voluntary;
- The presence or absence of rehabilitation and other permanent behavioral changes;
- The motivation for the conduct;
- The potential for pressure, coercion, exploitation, or duress; and
- The likelihood of continuation or recurrence.

The Reviewing Officials will consider the following elements when evaluating the results of the FBI Criminal History Records Check:

- Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.
- Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.
- Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionary, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.
- Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocates the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.
- Deliberately misrepresented, falsified or omitted relevant and material facts from documentation provided to the licensee
- Had been convicted of a crime(s) that, in the Reviewing Official's opinion, indicates poor judgment, unreliability, or untrustworthiness
- Conduct that warrants referral for criminal investigation or results in an arrest or conviction

These indicators are not meant to be all inclusive or intended to be disqualifying factors. Reviewing Officials may consider extenuating or mitigating factors in their determination. The purpose of the Trustworthy and Reliability (T&R) determination requirement, for unescorted access is to provide reasonable assurance that those individuals are trustworthy and reliable, and do not constitute an unreasonable risk to the public health and safety, including the potential to commit or aid theft and/or radiological sabotage.

### **Responsibility:**

All those who are granted unescorted access privileges are responsible for their own actions and the actions of anyone they escort to a controlled device location. It is also the responsibility of trustworthy and reliable individuals to remain with anyone they are escorting for the duration of their time with the controlled device. Failure to abide by these procedures may result in disciplinary action, the suspension or removal of unescorted access and/or termination.

Students with unescorted access privileges will be able to escort other personnel to the controlled device location; however, this would only be at the express direction of their PI.

It is also the responsibility for all those who are granted unescorted access privileges to complete the annual training requirement. Individuals with unescorted access privileges will be notified 90 days prior to their annual training completion due date. Failure to complete the annual training on or before the due date will automatically result in suspension of access privileges until the training has been completed.

Individuals with unescorted access privileges are subject to background reinvestigations every ten years. Reinvestigations will include fingerprinting, FBI criminal history records check only. It will be the responsibility of the Reviewing Officials to maintain and notify individuals of their reinvestigation dates.

### **Termination Procedure:**

The department must notify a Reviewing Official whenever an individual's access needs to be terminated due to a change in employment/student/visitor status or position change within 24 hours of the status date using the Unescorted Access Request form. Files of individuals will be destroyed 3 years after the access termination date. When terminated personnel files are no longer required to be retained, they are destroyed/disposed of by a Reviewing Official in a cross cut shredder.

The Reviewing Official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

### **Sensitive Information Protection:**

The Reviewing Officials store sensitive materials/information in a locked cabinet, inside a locked office. If sensitive material/information needs to be destroyed/disposed of, the Reviewing Official will shred in a cross-cut shredder. If and when material/information needs to be transported, the Reviewing Official will be the one transporting the sensitive information.