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**Subject: Background and Driving Record Investigation**

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## **1. Purpose**

This policy addresses the use of criminal background and driving record checks during the employment process, as part of a broader effort to provide a safe and secure environment and protect university assets.

## **2. Policy**

In order to protect university interests, institutional resources, and the welfare of its students, employees, and the public, it is the policy of the university to conduct criminal background and/or driving record checks on candidates selected for certain wage and salaried positions.

Applicants for specified faculty and staff positions will be advised that a criminal background and/or driving record check is a condition of employment, and that the determination of either a job-related conviction or falsified conviction information on the application may result in denial or forfeiture of university employment. Convictions disclosed or discovered in the employment process will only influence the selection of the applicant where such information is determined to be job-related. In making the determination of job-relatedness, consideration may be given to the recency of the conviction, the frequency and severity of the crimes, the honesty of the candidate in disclosing the information, and the candidate’s subsequent work history.

The university recognizes that its interests in investigating employees’ backgrounds must be balanced with the need to protect the privacy of employees and prospective employees. University policy and state and federal laws recognize the individual’s right to privacy and prohibits university employees from seeking, using, or disclosing information except within the scope of their assigned duties. Any information related to personal history, including conviction records, must be maintained in confidence. Only those personnel involved in the employment process should be informed on a need-to-know basis.

Criminal background checks will be required for: 1) individuals selected for identified positions or categories that have been determined to be sensitive, or 2) selected for employment in specific departments where sensitive functions, programs, or services are conducted (Section 2.2.1). Current employees who are selected for a position

identified as requiring a background check are also subject to this requirement. Further, checks may be required for individuals identified at any point in the hiring process as having potentially job-related convictions, or as having misrepresented their conviction history or driving record on the application. University administrators and supervisors will be asked to assist in the identification of positions in their departments for which conviction or driving records checks should be conducted. An exception to this policy requires the advance approval of the Vice President for Business Affairs.

The provisions of this policy also apply to identified temporary wage positions that are exempted from the normal recruitment process. (See [Policy 4032, Recruitment Guidelines for On- and Off-campus Wage and Salaried Classified Positions](#).)

Occasionally, student workers employed to perform duties of a sensitive nature may also be subject to a background check under the provisions of this policy.

A preliminary offer may be made to the selected candidate, contingent on the results of the check. However, the selected candidate will not normally be allowed to begin work before completion of the process.

All conviction and driving record checks on university employees must be coordinated through Human Resources. Auxiliary departments will be responsible for the costs of these checks.

## 2.1 Driving Record Check

Positions involving the following duties as an essential function of the position would normally require a driving record check.

- Operation of heavy equipment.
- Regular operation of university vehicles as part of the assigned job duties, such as transit drivers and delivery drivers.
- Positions requiring the possession of a Commercial Drivers' License.

## 2.2 Criminal Background Check

### 2.2.1 Individuals Employed in Identified Sensitive Positions or Departments

Types of positions identified as sensitive in nature include, but are not limited to, those that:

- Provide direct services, programs, and activities to students in residence halls, medical and counseling centers, and similar areas, as well as those involved in providing direct services in dining centers.
- Have direct access to, or control over, cash, checks, credit card account information, including cash handling or credit card acceptance positions, or have responsibility for creating, collecting, or accounting for material levels of accounts receivable.
- Have responsibility for the execution or approval of significant financial transactions.
- Have significant inventory control responsibilities, including the receipt and release of inventory.
- Allow privileged access to sensitive data or critical data processing systems. Possess building master keys or sub-master keys that provide access to university facilities.
- Have unsupervised access to university, employee, or student property, including housekeeping positions with access to offices and residence halls.
- Have access to pharmaceuticals or other controlled drugs.
- Have access to select agents and must receive approval from the CDC.
- Are responsible for the care, safety, and security of people or property (includes sworn public officers, child and elder care workers).

Positions that are located in departments where most employees perform sensitive functions on a routine basis will be subject to criminal background checks for newly hired, transferred, or promoted employees. This includes offices such as Internal Audit, Human Resources, Controller's Office, Virginia Tech Police Department, and Student Programs. In the identified departments, salaried faculty and staff, and regular wage employees, will be subject to this policy. Human Resources will consult with senior administrators to identify these departments.

### **2.2.2 Sensitive Positions Responsible for Public Welfare and Critical Infrastructures**

Additionally, some positions have been identified for a fingerprint-based criminal history check because the position carries direct responsibility for the health, safety, and welfare of the general populace, or protection of critical infrastructures, as required by Virginia Code § 2.2-1201.1. The finalists for these positions must:

- Complete a release form, obtained from Human Resources, authorizing the university to obtain the required information;
- Submit to fingerprinting; and
- Supply requested personal information to be used by the Department of State Police and the Federal Bureau of Investigation in conducting the records checks.

Because of the time required to complete these checks, Human Resources will work with the hiring manager to determine, on a case-by-case basis, whether the employee may begin work before the results of the fingerprint-based criminal check are received. If the employee is allowed to begin work prior to completion of the check, the university will issue an offer letter specifying that continued employment is contingent on receipt of an acceptable criminal history report and that the employee may be immediately terminated based on information obtained from that report. Further, the employee may be restricted from performing certain duties until satisfactory completion of the check.

### **2.2.3 Individuals Identified as Potentially Having Job-related Convictions**

A criminal background check may also be required for individuals who have disclosed potentially job-related convictions on the state application or during the interview, or who have been reported as potentially having job-related convictions by previous employers during the course of employment verification or reference checks.

### **2.2.4 Checks on Current Employees**

Current employees who have been selected for a position requiring a criminal background or drivers check and who have not had a previous background check completed within 6 months prior to the duty change will be required to complete another check. If a person is promoted or hired into a different job within the same department, then a new background check is not required if the person has one on file within the past two years; however, the department may ask for a new check if there is a reason to believe that a check should be completed. Current employees may also be required to undergo criminal background or driving record checks if there is evidence that they may have falsified their employment applications when initially hired by the university or have subsequently been convicted of law violations that may be job-related.

Individuals who do not disclose all required convictions on the application may be denied employment for falsification of the application. Convictions disclosed on the application or during the employment process will not be used to influence the selection decision if they have been determined to be unrelated to the job.

## **2.3 Disclosure and Use of Conviction Information**

The university's employment application requires an applicant to describe any convictions of law violations, including misdemeanors. Convictions include Virginia juvenile adjudications for Capital Murder, First and Second Degree Murder, Lynching, or Aggravated Malicious Wounding, if the individual was age fourteen (14) to eighteen (18) when charged. The application form includes a statement certifying accuracy and completeness, agreement to

submit to verification of applicant materials, and acknowledgement that misrepresentation, omission, or falsification may constitute grounds for dismissal and disqualification for future University employment.

It is acceptable and appropriate to inquire about convictions, but not arrests, during the interview process. Hiring officials should review the conviction statements on the employment application of interviewed candidates and should inquire about potentially job-related convictions during the interview. Individuals who do not disclose all required convictions on the application may be denied employment for falsification of the application. Convictions disclosed on the application or during the employment process will not be used to influence the selection decision if they have been determined to be unrelated to the job.

Any information about job-related convictions or falsification of information should be communicated to the Department of Human Resources for further investigation and appropriate action.

### **3. Procedures**

Detailed procedures and the forms for requesting the criminal background and driving records checks are provided on the Human Resources website.

#### **3.1 Identification of Sensitive Positions**

In consultation with hiring managers, Human Resources will identify sensitive positions using the criteria established in this policy and will discuss criminal background check requirements and review specific procedures with the hiring department when the position descriptions or recruitment requests are received.

Supervisors filling security sensitive wage positions exempted from normal recruitment procedures (i.e., emergency hires) should contact Human Resources to initiate the appropriate records checks.

#### **3.2 Initiating the Criminal Background and Driving Record Checks**

A preliminary offer is made to the selected candidate, with the final offer contingent on the results of the check. However, the selected candidate will not normally be allowed to begin work before completion of the process.

Off Campus Positions: The hiring department must provide the applicant with the necessary forms, which are available on the Human Resources website. The completed form should be faxed or mailed to Human Resources to initiate the check.

On-Campus Positions: The applicant should be directed to visit Human Resources to complete the forms, or the hiring department may send the completed forms to Human Resources.

Human Resources will contact the department with the results.

#### **3.3 Determination of Job-related Convictions**

The Department of Human Resources will review the criminal background records to determine job relatedness. The determination to deny employment to the selected candidate will be made by the hiring manager, in consultation with Human Resources, the University's Legal Counsel, and the Virginia Tech Police Department, in accordance with the provisions of this policy, as needed.

### **4. Definitions**

**Conviction:** The result of a trial that ends in judgment or sentence that the person is guilty as charged.

## **5. References**

[Policy 4032, Recruitment Guidelines for On- and Off-campus Wage and Salaried Classified Positions](#)

## **6. Approval and Revisions**

- **Revision 0**

Approved August 3, 1989, by the Associate Vice President for Personnel, Robert M. Madigan.

Reviewed June 1, 1992, by Associate Vice President for Personnel and Administrative Services, Ann Spencer. No changes.

- **Revision 1**

Minor wording changes and specific reference to the inclusion of temporary wage positions.

Approved June 18, 1993, by Associate Vice President for Personnel and Administrative Services, Ann Spencer.

- **Revision 2**

Section 3.3 Initiating the Conviction Check. Procedural changes were made for the selected candidate. The employee completes the Virginia State Police Criminal History Record Request at the Personnel Services Department instead of the Virginia Tech Police Department. In addition, both on and off-campus instructions on initiating a check have been added. Personnel Services will contact the department if there is a problem with the results of the check.

References for additional information on temporary wage positions were previously made to Policy 4035, Wage Employment Guidelines. This policy has been rewritten and merged with other related policies; reference information can now be found in [Policy 4032, Recruitment Guidelines for On- and Off-campus Wage and Salaried Classified Positions](#).

Section 3.5. Initiating the Driver's Check for On- or Off-campus Positions was added.

Other minor word changes and formatting for clarity.

Approved July 20, 2000, by Assistant Vice President for Personnel Services, Linda Woodard.

October 10, 2001: Technical corrections to update policy links.

- **Revision 3**

The title of the policy was revised from “Criminal History and Driver’s Record Investigation” to “Background and Driving Record Investigation.” These terms were changed throughout the policy.

The policy was revised to include the following changes: (a) clarification that the checks are completed prior to commencement of employment; (b) stating the importance of confidentiality; (c) clarifying the types of positions for which driving records checks may be required under Section 2.1; (d) expanding the types of sensitive responsibilities under Section 2.2; (e) expanding the covered employees to include administrators, faculty, and staff in identified sensitive positions or departments; and (f) including provisions for finger-print based conviction checks for certain positions as required under Virginia Code § 2.2-1201.1.

Other changes included significant re-formatting.

Approved June 19, 2006 by Kurt J. Krause, Vice President for Business Affairs.