



Criminal Conviction Investigations

Policy Type: Administrative
Responsible Office: VCU Human Resources
Initial Policy Approved: 12/01/1993
Current Revision Approved: 08/10/2015

Policy Statement and Purpose

Virginia Commonwealth University (VCU) makes every effort to provide reasonable safeguards to protect the welfare and safety of its students, patients, employees and visitors and the university's institutional resources. As a part of these efforts, VCU Human Resources will provide for criminal conviction investigations to be performed on all new and rehired employees. Criminal conviction investigations also will be conducted in connection with certain transfers, promotions and other business needs as described within this policy. (Note: Based on the duties being performed, VCU also may request criminal conviction investigations for unpaid interns, volunteers and affiliates.)

The accuracy and completeness of the disclosure of prior law violations revealed or identified in the hiring/orientation process will be verified. Convictions disclosed or discovered in the hiring/orientation process may influence the final offer of employment only where such offenses are considered “job related.” Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors and institutional resources. The job relatedness of all convictions will be considered on a case-by-case basis and relevant factors will include, but not be limited to, the nature and gravity of the offense(s), time that has passed since the conviction(s) and/or completion of the sentence(s) and the nature of the job sought (i.e., the work environment, specific responsibilities of the position, access to and interaction with students, patients and the public, etc.).

Noncompliance with this policy may result in disciplinary action up to and including termination of employment. VCU supports an environment free from retaliation. Retaliation is prohibited against any employee who brings forth a good faith concern, asks a clarifying question or participates in an investigation.

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Who Should Know This Policy

All faculty and staff are responsible for knowing this policy and familiarizing themselves with its contents and provisions.

Definitions

Child Care Positions

These are positions that involve or relate to the care of children, which require additional background processing in accordance with requirements of the Virginia Department of Social Services policy or Virginia Board of Education.

Rehire

For purposes of this policy, this term means employment after any separation from VCU service as reflected in the Banner system. Periods of payroll inactivity are not included unless the employee is separated from employment in Banner.

Resource Critical Positions

These are positions with access to or control over confidential student, employee and/or patient data and/or access to or control over significant institutional assets.

Sensitive Positions

These are positions that have direct responsibility for the health, safety and welfare of the general populace or protection of critical infrastructures and are identified as sensitive and require fingerprinting:

- positions responsible for safety, such as police and security staff;
- positions with access or contact with research animals;
- positions with access to certain hazardous materials;
- positions responsible for direct patient care; and
- other positions, as deemed sensitive by management.

Contacts

VCU Human Resources officially interprets this policy and is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures. Please direct policy questions to VCU Human Resources.

Procedures

- 1. Applicant Disclosure:** Applicants for sensitive positions are required to disclose criminal convictions.
 - Convictions disclosed or discovered during the application process may influence the referral, selection and final offer of an applicant where such information is job related.
 - Failure to make a required disclosure of a conviction(s) is deemed falsification of application and may result in revocation of a conditional offer and/or termination of employment.

- 2. Extent of Background Check:** Human Resources will conduct confidential criminal conviction investigations as follows:
 - Employees hired, transferred or promoted into “sensitive” positions require a fingerprint check (Virginia Code § 2.2-1201.1). These investigations are conducted through VCU Police interface with the FBI’s database prior to the hire date.
 - All other newly hired or rehired employees require an investigation conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven years.* (Exception: Employees who do not yet have a social security number and are on a new visa, issued within the past 30 days, screened by the U. S. Department of Homeland Security are not rescreened.)
 - In addition, the Virginia Department of Social Services also requires that a check of the Child Abuse and Neglect Complaints Central Registry and Virginia State Police be completed on applicants seeking hire, rehire, transfer or promotion into child care positions. The full process is re-done every three years during the incumbent’s employment.
 - Current employees seeking transfer or promotion into resource critical positions will undergo an additional background check conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven years.

*Certain positions also may require additional checks after hire based on grant, security, accreditation or other agency requirements (e.g., VCU Police staff; employees requiring unescorted access to hazardous materials). Employees in those positions will be notified during the hiring, certification or funding process, or other business process.

- 3. Condition of Employment:** The university will investigate past criminal convictions as a condition of employment after a candidate has signed a waiver authorizing release, been found otherwise eligible for the position and is being considered for a specific position. Employment is subject to final review and evaluation of the criminal conviction history.
 - Any person refusing to complete and sign appropriate authorization for release of criminal history information prepared in accordance with the Governor of Virginia’s Executive Order 41 (2015) may have his/her application removed from further consideration.

- Classified employees, hourly workers, student workers, graduate assistants and work-study students will be advised that a criminal conviction investigation is a condition of employment.
- Faculty will be notified in the “Terms and Conditions” of their contract that the offer of employment is conditional upon a job-related background check and their consent to a criminal history records check.

All background checks will be conducted after the conditional offer of employment and prior to the selected candidate’s start date as required by this policy. To ensure the most recent history is on file, criminal conviction investigations should be completed no more than 30 days prior to the employee's start date. Criminal history records will be received and processed as part of a confidential practice in Human Resources.

- 4. Review Process:** Criminal conviction(s) identified in the hiring/orientation process will be confidentially reviewed by Human Resources and may render the selected candidate ineligible for holding a specific position(s) based on the nature and gravity of the offense(s), time that has passed since the conviction and/or completion of the sentence and the nature of the job sought. Any additional convictions that may be revealed from the criminal record check will be confidentially reviewed by Human Resources and may be considered cause for rescinding the conditional offer and/or termination of employment based on the nature of the job and job relatedness of the conviction(s).

Current employees who apply for transfer or promotion into child care, resource critical or sensitive positions will be subject to criminal history checks as described above under “Extent of Background Check.” Information obtained through the check may affect the employee’s ability to remain in the new or current position, depending on the relevance of the information to the position. Current employees who transfer into a new position may start the new position while the background check is still in progress.

Decisions regarding termination of employment or other action will be made in conjunction with the appropriate department head, dean, vice president and/or president. If a final recommendation for termination of employment is made by Human Resources, only the president or a vice president can waive that recommendation and approve the department’s request to retain the employee.

- 5. Investigations for Cause:** When circumstances are identified that warrant further investigation, the university reserves the right to conduct a criminal conviction investigation on an employee who is charged with any crime that reflects on or gives rise to questions as to his/her suitability for continued employment or during the course of an administrative investigation. The results of the investigation will be reviewed as described above under “Review Process” and may be considered cause for termination of employment based on the nature of the employee’s job and the job relatedness of the charge(s)/conviction(s).

Forms

There are no forms associated with this policy and procedures.

Related Documents

1. [Federal Fair Credit Reporting Act](#)
2. State Policy 1.05, Alcohol and Other Drugs
http://web1.dhrm.virginia.gov/itech/hrpolicy/pol1_05.html
3. State Policy 2.10, Hiring
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_10hiring.pdf?sfvrsn=2
4. Alcohol and Other Drugs
<http://www.policy.vcu.edu/sites/default/files/Alcohol%20and%20Other%20Drugs.pdf>
5. Faculty Salary Administration
<http://www.policy.vcu.edu/sites/default/files/Faculty%20Salary%20Administration.pdf>
6. Classified Employment, Promotion and Transfer
<http://www.policy.vcu.edu/sites/default/files/Classified%20Employment%20Promotion%20%26%20Transfer.pdf>
7. [Virginia Department of Social Services Standards for Licensed Child Day Care Centers](#)
(background checks)
8. [Governor's Executive Order 41 \(2015\), "Ban The Box"](#)

Revision History

This policy supersedes the following archived policies:

April 10, 2011	<i>Criminal Conviction Investigations</i>
April 21, 2015	<i>Criminal Conviction Investigations</i> – revision due to Governor's Executive Order 41 (2015), "Ban the Box," implemented April 21, 2015, which reforms state hiring practices by removing questions regarding criminal history from the state employment application.
August 10, 2015	<i>Criminal Conviction Investigations</i>

FAQs

There are no FAQs associated with this policy and procedures.