

COLLEGE of CHARLESTON

OFFICIAL POLICY

9.2.1

BACKGROUND CHECKS POLICY

8/23/2016

Policy Statement

This document sets forth the College of Charleston's background check policy and procedures for employees. The College is committed to hiring qualified employees and strives to provide a safe and secure work environment for our faculty, staff, students, and visitors. This policy supports the College's efforts to minimize institutional risk, provide a safe environment for employees, students and the public, and assist hiring authorities in making sound hiring decisions.

Policy Manager and Responsible Department or Office

Office of Human Resources

Purpose/Reason for the Policy

1.0 PURPOSE

The purpose of this Policy is to:

(a) further the College's legitimate interests in providing a safe and secure environment for all employees, students, and visitors by ensuring that Finalists for open employment positions at the College do not pose a threat to the College Community and have fully and accurately disclosed their credentials, experience, and qualification for the positions they have been preliminary selected to fill; and

(b) Formulize and implement procedures governing pre-employment, and in certain cases, post-employment Background Checks for making hiring or retention decisions based upon consideration of information received from Background Checks.

Departments/Offices Affected by the Policy

All Departments

Procedures Related to the Policy

2.0 DEFINITIONS

As used in this Policy the terms listed below shall have the meaning ascribed next to each:

(a) "Acceptable Background Check" shall mean: information received by the College on the background of an individual that does not include any disqualifying crime or conduct as defined in Sections 8.1 and 8.2 or, in the College's opinion based on evaluation of the factors listed in 7.8, does not constitute a safety or security risk to the Campus community.

(b) "Background Check" shall mean obtaining one or more of the following elements of information regarding a Finalist's or employee's personal history, job experience and/or education:

- (1) Criminal record -statewide, national, federal, and international
- (2) Court records including but not limited to bankruptcy
- (3) Pending criminal trial if Finalist is out of jail pending trial
- (4) Driving record
- (5) Vehicle registration
- (6) Employment history verification
- (7) Education verification
- (8) Reference verification - character and/or professional references
- (9) Credit records
- (10) Professional License, Certification or Commission verification
- (11) National Sex Offender Search
- (12) Social Security Number verification
- (13) Any Fingerprint-Based Criminal or Security Record
- (14) Employment Eligibility verification-- E-Verify
- (15) National wants and warrants
- (16) I-9 verification
- (17) OIG/GSA excluded parties
- (18) Global Terrorist Search
- (19) Civil Records Search
- (20) Military verification

"Background Check" does not include Bankruptcies after 10 years; civil suits, civil judgments, and records of arrest after seven years, and paid tax liens and accounts placed for collection after seven years. In addition, except for criminal convictions, the

term shall not generally include any other negative items of information after seven years.¹

(c) "Background Check Vendor"-shall mean that vendor or those vendors selected by the College to perform Background Checks for the use of the College.

(d) "College Community" - shall mean trustees, students, faculty and staff of the College and visitors to the College.

(e) "Criminal Record"-shall mean any crime for which there is a record of Conviction.

"Criminal Record" does not include:

(1) an arrest or detention which did not result in conviction, except if the applicant is applying for a Security Sensitive Position;

(2) a conviction for which the record was judicially ordered sealed, expunged, or statutorily eradicated;

(3) a record of arrest for a misdemeanor, from date of entry, after seven years or until the governing statute of limitations has expired, whichever is the longer period; or

(4) a conviction for which a pardon has been lawfully issued.

(f) "Conviction" means a criminal felony offense or other criminal conviction and includes a guilty plea or plea of nolo contendere in any state, federal or international court.

(g) "Employee"-- shall mean (i) all persons on the College's full time payroll; (ii) College students employed by the College in Security Sensitive Positions; (iii) part-time employees who are not enrolled students of the College other than those students employed in Security Sensitive Positions; and (iv) "Volunteers" of the College, within the meaning of S.C. Code Ann. § 8-25-10.

(h) "Finalist"- shall mean:

¹ The provisions of this paragraph are not applicable in the case of any background check to be used in connection with the potential employment of any individual at an annual salary which equals, or which may reasonably be expected to equal

\$75,000, or more. See 15 U.S.C. § 1681c(b)(3).

(1) any job candidate submitted to the hiring official for selection as a new hire in any position at the College, including any full-time or part-time, probationary, permanent, temporary or visiting faculty, staff, administrative, or professional position and any person who is volunteering to perform one or more functions of a Security Sensitive Position;

(2) any employee of the College who is preliminary selected for a transfer, a reclassification or reassignment to a Security Sensitive Position; or

(3) any student who is preliminary selected for employment in a Security Sensitive Position.

(i) "Fingerprint-Based Criminal or Security Record Background Check" - shall mean any state, federal, and nationwide search for criminal convictions or security clearance based on the individual's fingerprint.

(j) "Hiring Official"- shall mean that College manager or supervisor who takes a personnel action on the part of the College to hire an employee.

(k) "Security Sensitive Position"- means any of the following:

(1) Safety-Sensitive and High Risk Positions - those College positions in which the impaired performance of an incumbent would present a substantial risk of injury to self or others and includes positions that require one or more of the following activities: (i) driving or maintenance of powered vehicles; (ii) the operation or maintenance of boilers, elevators, construction equipment or similar dangerous machinery; (iii) the handling of hazardous materials (including but not limited to direct access to federally designated biological agents and toxins); (iv) dispensing controlled substances or prescription medications; (v) providing clinical services to students; (vi) being in an unsupervised setting with minor children; or (vii) being responsible for reporting on, inspecting, or furthering environmental or fire safety on College Property.

(2) Law Enforcement Positions -- the Chief of Campus Police and all of those College positions and volunteers who report directly or indirectly through one or more supervisors to the College Chief of Police.

(3) Financial and all other Sensitive Positions - those positions designated as "Sensitive" by the College because such positions carry the potential to expose the College to substantial liability, or present a risk of loss or harm to the College or to members of the College Community. These positions include, but are not limited to, those involving significant financial responsibilities and those positions that have significant access to residence hall rooms, cash or access to sensitive business or personal data, master keys or federally classified data.

3.0 Effective Date

This Policy shall be effective for Finalists selected on and after September 1, 2009 and for all Employees on October 1, 2009.

4.0 Pre-employment Background Check

4.1 General Rule -- Except as otherwise specifically provided for in this Section 4.0, the College shall require a pre-employment Background Check on all Finalists.

4.2 Conditional Employment-- Subject to the provisions of Section 4.3, a Finalist, other than a Finalist for a Security Sensitive Position, may be extended an offer of employment and be permitted to start work prior to an Acceptable Background Check, provided that the Executive Vice President or Senior Vice President responsible for the unit in which such position is located, determines that the immediate placement of the Finalist in the vacant position is essential to the proper functioning of the unit in which the position is located .

4.3 Continued Employment -- Continued employment of a Finalist hired pursuant to Section 4.2 shall be conditioned upon receiving an Acceptable Background Check within the first 3 weeks of employment. All hires approved pursuant to Section 4.2, shall receive an employment contract or letter of appointment from the College that specifically states that continued employment is conditional upon an Acceptable Background Check within the first 3 weeks of employment.

5.0 APPLICATION PROCESS

5.1 Required Documents -- All job applicants, including current employees seeking a transfer, reassignment or reclassification to a Security Sensitive Position, shall submit the following forms and documentation to the Office of Human Resources ("OHR") to be considered an eligible candidate for such position:

- (a) a completed Application for Employment;
- (b) any other relevant documentation required by the hiring unit or OHR.

5.1.1 In the case of a recruitment action for teaching faculty, the documents listed in Section 5.1(a) and (b) may be received by the employing academic unit, provided that HR is timely provided a copy of such documents for its records. The academic unit may also request and receive from job candidates' curricula vitae, writing samples, letters of reference, certified transcripts, verification of licensure and such other documents and records as it may deem relevant to the faculty position that is the subject of the recruitment action.

5.2 Withdrawal of Offer of Employment -- An offer of employment shall be withdrawn if the College does not receive an Acceptable Background Check on the Finalist.

6.0 POST EMPLOYMENT BACKGROUND CHECK

A Background Check may be conducted on a current employee: (a) who self-discloses an arrest or a Conviction; (b) upon the receipt of information from any credible source that an employee failed to disclose a Conviction in his/her employment application form or in violation of this Policy; (c) upon receipt of information from any credible source that an employee is in default on a student loan; (d) pursuant to and in compliance with Federal, State, or local laws and regulations that permit such a Background Check for a specific purpose; or (e) upon reasonable suspicion that the employee may have been arrested or

may pose a threat to the safety of the College Community.

7.0 BACKGROUND CHECK PROCEDURE

7.1 Sources of Information-- The College may have a Vendor conduct a Background Check and/or may use any other resource available through the College or any other local, state, federal, or national agency permitted by law to conduct Background Checks.

7.2 Authorization and Disclosure - When applicable, prior to conducting any Background Check the College will obtain a written authorization from the Finalist or employee and will advise such Finalist or Employee that a consumer report may be obtained for employment purposes (see Appendix A).

7.3 Management of Policy -- The Vice President of Human Resources shall take such actions as may be necessary and appropriate to implement this Policy and to carry out its intent.

7.4 Notice-- As appropriate, employment documents and related materials including vacancy listings, advertisements, website announcements, and employment applications shall specify that a Background Check, including a criminal Background Check, will be performed prior to any final employment offer and the start of work, or will be required as a condition of continued employment and that all persons selected for employment will be required to have an Acceptable Background Check.

7.5 Confidentiality -- Information received as the result of a Background Check shall be maintained as "confidential" and access to such information shall be restricted to employees that have a need to know such information in order to perform their respective job responsibilities. All documents gathered in connection with a Background Check shall be maintained confidentially and securely in a file separate from the regular employment/applicant file.

7.6 Acceptance --After a report has been returned from the Vendor or other source, OHR shall maintain this documentation and notify the hiring official of the results. The report shall be carefully reviewed and if no adverse action is contemplated, based on the report, the selection process for the applicant shall proceed. If the applicant has been hired on a contingent basis, the offer of employment shall become final in accordance with the other terms and conditions of the appointment.

7.7 Adverse Action -- If adverse action is probable based in whole or in part on the report, OHR shall notify the Finalist that such action is possible and that certain information must be provided. Human Resources shall include the following documents with the notification: a copy of the background check report and a copy of any documents that may be required under law, such as a "Summary of Your Rights Under the Fair Credit Reporting Act."

7.8 Appeals-- Before making a final decision on the employment candidacy or job retention, OHR shall give the applicant five (5) business days (the "Response Period") to respond to or challenge the Background report and provide information on the circumstances surrounding any negative information listed in the report. Any such notice shall be delivered by certified mail, return receipt requested, or by any means ensuring that the actual date of delivery is recorded.

7.9 Evaluation of Information -- Except as provided in Sections 8.0 and 9.2, after the Response Period has elapsed, the hiring official and OHR shall make a decision, in consultation with the General Counsel for the office of Legal Affairs, on the eligibility for employment or continued employment. If the decision is based in whole or in part on a Background Check report, the factors listed below must be considered when making a risk determination or a determination as to suitability for employment by the College:

(a) The nature of the particular job at issue, the duties to be performed, and contact with employees, students and the public;

(b) The nexus between any noted criminal conduct and the job duties of the position to be filled;

(c) The nature of any noted crime or other adverse information, its seriousness and its future legal implications;

(d) The date of any noted crime or other adverse circumstances, and age of the applicant at the time of the crime or circumstance;

(e) If known, the circumstances surrounding the commission of any noted crime;

(f) The sanction or sentence imposed and compliance therewith;

(g) Post-conviction activities, positions and circumstances;

(h) Rehabilitation records;

(i) Response received after notice of possible adverse action;

(j) Other instances of misconduct or unprofessional conduct;

(k) Any opinions from a trained professional about the possibility of future untoward behavior; and

(l) Explanations or descriptions, if any, provided by the subject of the report.

7.10 OHR Recommendation and Action -- After considering the factors set forth in section 7.9, OHR shall recommend action on the employment of the applicant or the retention of the employee, as the case may be, to the appropriate Executive Vice President or Senior Vice President in charge of the unit in which the position is located. If the determination is in the affirmative to hire or retain the employee, the regular hiring and retention procedures shall be undertaken. If the hiring official determines not to make a job offer, he or she will send to the subject of the Background Check a final decision letter to be entitled "Notice of Adverse Action". This notice will inform the individual that no further consideration of this person shall be undertaken and shall also include another copy of the summary of rights under the Fair Credit Reporting Act, if required.

8.0 DISQUALIFYING CRIMES AND CONDUCT

8.1 Disqualification for All Positions -- Conviction of or conduct involving anyone of the following crimes or the conduct listed below shall be deemed to constitute a disqualification for holding any employment position with the College:

(a) murder;

(b) felony conviction involving the use of a deadly weapon;

(c) Conspiracy against civil rights;²

(d) embezzlement of public funds;³

(e) falsification of employment application or self-disclosure form;

(f) any sex offense involving a minor;

- (g) sexual assault;
- (h) robbery;
- (i) kidnapping;
- (j) default on a student loan⁴; or
- (k) any other crime or conduct that the College, in its discretion, may consider to be a disqualifying crime or conduct.

8.2 Disqualification for Security Sensitive Positions - In addition to the disqualifying crimes and conduct listed in 8.1, for Security Sensitive Positions (see Appendix B), the College may disqualify an applicant based on any other crime or conduct that, in the College's opinion, constitutes a safety or security risk to the campus community.

² A person convicted under S.C. Code § 16-5-10 for the crime of "conspiracy against civil rights" is ineligible to hold, and disabled from holding, any office of honor, trust, or profit in this state.

³ A person convicted under S.C. Code 16-13-21 0 for the crime of "embezzlement of public funds" is disqualified from holding

any office of honor or emolument in this state.

9.0 EXTENT OF BACKGROUND CHECKS

9.1 Basic Background Check -- All Finalists and all employees employed pursuant to 4.1 or 4.2 shall, at a minimum, undergo the following Basic Background Check:

- (a) Criminal Record Check- statewide, national, federal, and international;
- (b) Social Security Number verification;
- (c) Employment eligibility verification -- E-Verify;
- (d) Education verification;
- (e) Reference Check;
- (f) Employment history verification; and
- (g) National Sex Offender Search

9.2 Security Sensitive Background Check -- In addition to the Basic Background Check, Finalists and conditional hires employed pursuant to 4.2 who are applying for or are in a Security Sensitive Position shall also undergo the job specific Background Check designated in Appendix B. Among other things, these additional checks may include one or more of the following:

- (a) Court records including but not limited to bankruptcy and civil records check;
- (b) Pending criminal trial if Finalist is out of jail pending trial;
- (c) Driving record;
- (d) Character references;
- (e) Professional references;
- (f) Credit records;
- (g) Professional License, Commission or Certification verification;
- (h) Vehicle registration;
- (i) Fingerprint-based criminal or security record (federal, state and/or national);
- (j) National wants and warrants;
- (k) OIG/GSA excluded parties;
- (l) Global Terrorist Search;
- (m) Civil Records Search; and/or
- (n) Military verification.

4 S.C. Code § 59-111-50 precludes from employment by the State persons willfully defaulting on a National Direct Student Loan, a National Defense Student Loan, a Guaranteed-Federally Insured Student Loan, a Nursing Student Loan, a Health Professions Student Loan or a Law Enforcement Educational Loan until all defaults are cured and loan payments made current. Under this provision, a student loan is not considered in default or the default is considered cured so long as the person complies with the terms of a repayment agreement entered into by the person and the lender voluntarily confirms this agreement after the default.

Related Policies, Documents or Forms

AUTHORIZATION FOR RELEASE OF INFORMATION FOR
INVESTIGATIVE CONSUMER REPORT/EMPLOYMENT PURPOSES
FORM (See Attached Documents).

Issue Date:8/23/2016
Date of Policy Revision:8/23/2016

Next Review Date:10/23/2020

POLICY APPROVAL

(For use by the Office of the Board of Trustees or the Office of the President)

Policy Number: 9.2.1

President or
Chairman, Board of Trustees



Date: 8/23/16

DISCLOSURE

For the benefit of The College of Charleston (the "COLLEGE") and employees, the College of Charleston has a policy of performing pre-employment background screening on job applicants as a condition of employment. This policy is a business practice that protects everyone by helping to promote a safe and profitable workplace. All pre-employment inquiries are limited to information that affects job performance and the workplace. It is conducted in accordance with applicable federal and state laws, including the Fair Credit Reporting Act (FCRA).

The screening will be conducted by *Surveillance, Resources and Investigations LLC* (SR&I, LLC), an outside agency. The COLLEGE may obtain a consumer credit report and/or an investigative consumer report on you as an applicant or during the course of employment.

1. The report consists of information deemed to have a bearing on job performance, and may include information from public and private sources, public records, former employers and references. The scope of the report may include information concerning driving record, civil and criminal court records, credit, worker's compensation records, education, credentials, identity, past addresses, social security number, previous employment and personal references.
2. The report may also include reference checks from former employers, co-workers or references. Any past employment reference check is limited to job related information. These are known as an "investigative consumer report." This type of report is legally defined as a report based upon interviews that may contain information relating to my character, general reputation, personal characteristics or mode of living. You have the right to request additional disclosures of the nature and scope of the investigation and a statement of your rights. To receive this information or to inspect any files concerning such a report or to determine if a report on you has been requested, you may contact the COLLEGE {843-953-5512} at 160 Calhoun Street, Charleston, South Carolina 29424, or *Surveillance, Resources and Investigations LLC* at {855-581-0937} or at 5 Century Drive, Suite 210, Greenville, SC 29607.
3. In using a report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall

provide to the consumer to whom the report relates a copy of the report and a description in writing of the rights of the consumer under the title, as prescribed by the Federal Trade Commission section 609(c)(3).

4. California Provisions: In California, any report concerning a consumer's character, general reputation, personal characteristics or mode of living is defined as an Investigative Consumer Report. In addition to your rights under federal law, you have the following additional rights: You have the right to inspect *Surveillance, Resources and Investigations'* files during normal business hours and on reasonable notice; the inspection may be in person, by certified mail, or by telephone if the individuals show proper identification and pays for any copying charges; the applicant may be accompanied by one other person who must show proper identification; and trained Screening One personal will explain any of the information in the report and will provide written explanation for any coded information.

5. CALIFORNIA, MINNESOTA, AND OKLAHOMA APPLICANTS ONLY:

I request a free copy of any Consumer Report, Investigative Report or Credit Report on me that is requested.

YES _____ NO _____

I, _____ hereby consent and authorize *Surveillance, Resources and Investigations LLC* on the employer's behalf, to prepare each report as defined above for employment purposes before employment or any time after employment.

Date _____

Signature _____

Print Name _____

