

**St. Mary's College of Maryland
Criminal Background Check
Revised Effective July 1, 2014**

**Responsible Executive: Vice President for Business & Finance
Responsible Office: Office of Human Resources**

Policy Summary

Criminal background checks will be conducted on any new applicants extended contingent offers of employment with the College. Within this policy, all employees hold sensitive positions to include: all faculty and staff hired into permanent positions, all faculty and staff hired into contractual positions, and certain student employees hired into programs with criminal background check requirements. Criminal background checks are not required for current employees unless: a) the College is required by law to conduct a background investigation, b) an existing faculty or staff member changes job responsibilities or is promoted to the extent that the sensitivity of the new position is significantly different than the sensitivity of the existing position. (Faculty promotions to associate professor and professor are not considered significantly different and not subject to criminal background checks). The hiring department is responsible for working with the Criminal Background Check Review Committee to determine the specific areas of sensitivity for the position in accordance with this policy. If the background check reveals a conviction relevant to the position, the individual extended an offer of employment may, after consideration by the Criminal Background Check Review Committee, be disqualified from holding that position.

Purpose of This Policy

In order to protect the campus community, students, staff, and guests, as well as to secure the integrity of the institution, the College needs to ensure that all job applicants offered employment have no history of criminal behavior in the past seven years that could in any way jeopardize the safety, health, welfare, or fiscal security of the College community. Criminal background checks are intended to reduce the likelihood of certain types of crimes occurring on the College's campus as well as to protect the College from legal exposure should such an action occur. The College recognizes that its need to investigate employees' criminal history must be balanced with the need to protect those employees' privacy. College policy and state and federal laws recognize the individual's right to privacy and prohibit campus employees and others from seeking, using, or disclosing personal information except within the scope of their assigned duties.

Responsibilities

Hiring Departments:

- Indicate on the *Criminal Background Check Worksheet* form the areas of sensitivity that are of primary concern for the position.
- Make sure all recruitment information and announcements indicate the criminal background check requirements.
- Notify the individual under consideration for a position that an offer of employment is conditional on successful completion of the criminal background check and that falsification of information submitted on College application materials may be cause for corrective action up to and including dismissal.
- Notify the Office of Human Resources to initiate the criminal background check.
- Maintain confidentiality of any applicant data and materials.

Notes for Hiring Departments:

1. *Performing a criminal background check does not relieve the hiring department of its obligation to perform reference checks, verify prior employment, obtain copies of licenses or certificates required for the specific position, and perform other checks.*
2. *If an existing employee is promoted or changes positions within the College the hiring manager must indicate on the Criminal Background Check Worksheet areas of primary concern for the new position.*
3. *The hiring manager must submit this information to Human Resources to commence the background check process. A background check for an existing employee will be initiated by Human Resources if the sensitivity of the new position is significantly different from the sensitivity of the previous position.*
4. *The existing employee may not assume the new position until the background check results are received.*

Office of Human Resources:

- Consults with departments about policy interpretation.
- Facilitates the criminal background check process.
- Requests from individuals who have criminal convictions identified through the background check process a statement concerning the conviction and any information that the Review Committee may find useful in determining suitability for hire. The individual has five days to provide such a statement, has the right to provide such statement or not, and failure to provide information may not in itself be cause to deny employment.
- Works with the Criminal Background Check Review Committee to determine whether an individual is suited for employment based on the results of the criminal background check.
- Provides all individuals who have undergone criminal background checks with a summary of their background check results and informs them

when a conviction disqualifies them from employment.

- Maintains confidentiality of criminal background check results.
- Serves as the Office of Record for files concerning criminal background checks.

Office of Public Safety:

- Upon request from the department, obtains a Pull Notice Review from the Department of Motor Vehicles (DMV) for employees who routinely drive campus vehicles on College business.
- Maintains confidentiality of DMV Pull Notice Review results.

Criminal Background Check Review Committee:

- Reviews only criminal background checks that reveal convictions that have occurred within the past seven years.
- Reviews applicant's written statement if one is provided.
- Determines whether such convictions disqualify individuals from the position for which they are applying.
- The Review Committee will not convene before the five day time period allotted for the applicant to submit a written statement.
- The Review Committee will provide their hiring determination within fourteen days of convening.

INITIATING A CRIMINAL BACKGROUND CHECK

The Office of Human Resources initiates a combined Maryland Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) Background Check after the employment offer, but before the first day of employment. The selected candidate may not start employment prior to the conclusion of a criminal background check unless this requirement is waived by the Vice President for Business and Finance. If the selected candidate is permitted to begin employment prior to the conclusion of a criminal background check, however, the criminal background check must be initiated no later than five days after a new employee's start date. It is vital the applicant be informed that continued employment in the current position is contingent upon successful completion of both the DOJ and FBI background checks.

The hiring department must notify the individual under consideration in writing that the offer for employment is conditional upon successful completion of the DOJ/FBI background checks. This notification must include a warning that falsification of information submitted on College application materials is cause for corrective action up to and including dismissal.

CONDUCTING A CRIMINAL BACKGROUND CHECK

The hiring department completes the appropriate forms to initiate the background checks and obtains the completed Applicant Release and Disclosure Form. The hiring department makes arrangements through the Office of Human Resources for the individual under consideration to complete the fingerprinting process.

Maryland State Police or the St. Mary's College of Maryland Office of Public Safety fingerprints the individual and completes the appropriate form(s). Out of State candidates may obtain fingerprints from other sources and should coordinate this process with the Office of Human Resources. The Office of Human Resources should receive the DOJ criminal background check information in three to seven days and the FBI information in approximately 30 days.

The Office of Human Resources notifies the hiring department if the results show no convictions so that the personnel action can be completed. If the results show that convictions exist, the Office of Human Resources notifies the applicant and provides the applicant an opportunity to submit a written statement concerning the conviction. The written statement, if submitted, along with the criminal background check results are forwarded to the Criminal Background Check Review Committee for further action.

The subject of a background check is provided a summary of their background check results whether or not convictions are revealed.

IF THE CRIMINAL BACKGROUND CHECK REVEALS CONVICTIONS

The applicant will receive a summary of the report that indicates what convictions have been identified in the background check. The applicant will be given a period of five days to respond in writing to the report.

A Criminal Background Check Review Committee (Review Committee) consisting of the Director of Human Resources, the Vice President for Business and Finance or designee, and the Dean of Faculty or designee will be notified of all criminal background checks in which convictions are found. The Review Committee will not convene before the five day response period provided to the applicant. The Review Committee will review the criminal background check reports and the candidate's response and make final determinations regarding the suitability of individuals for specific positions. The Review Committee may recommend implementation of additional controls before a department can employ an individual with a conviction. The Committee will complete its review within fourteen days of convening.

Only criminal convictions that have occurred within the past seven years will be considered by the Review Committee. The Review Committee shall consult the *Criminal Background Check Worksheet* form for the list of convictions of primary concern related to sensitive functions of the position and will use this list to guide their deliberations. Results without conviction do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. However, if an individual has a criminal case pending, his or her suitability for continued employment may be reviewed upon disposition of the case. Certain types of convictions within the past seven years may automatically preclude hiring for certain positions. For example, individuals with convictions for felony thefts, embezzlement, identity theft, or fraud cannot be hired into positions with fiduciary responsibilities. Convictions for child molestation and other sex offenses will automatically preclude an individual from employment that involves direct unsupervised contact with students, outreach programs, or access to residence facilities. Workplace or domestic violence,

or other convictions for behaviors that would be inappropriate for specific jobs, may also be grounds for denial of employment. The above list is not all inclusive, but is intended to illustrate the decision-making criteria. In determining an individual's suitability for employment where the individual under consideration has convictions, the Review Committee will consider the specific duties of the position, the number of offenses and circumstances of each, and whether the offenses were disclosed on the application. The Review Committee may seek clarifying information from law enforcement agencies to assist in their deliberation.

The Office of Human Resources will notify all applicants of the results of their criminal background check. If the results of the criminal background check preclude an individual from employment, the Office of Human Resources will disclose to the individual subject the date(s) and the types of conviction(s) found in the criminal background check. Subjects of background checks are always entitled to receive a summary of the background check from the Office of Human Resources. The Office of Human Resources will provide subjects of criminal background checks with information regarding how they can obtain the same information directly from the DOJ. The Office of Human Resources will give written notice and the name of the agency that conducted the background check to the individual when employment is denied based on information received from the reporting agency, as required by the Fair Credit Reporting Act (FCRA), which also covers criminal background checks. The Office of Human Resources will serve as the Office of Record for background check results.

Candidates who have results returned that negatively impact the final hiring decision will have an opportunity to submit a written appeal for consideration by the College. Such information must be submitted in writing to the President of the College within ten business days of receiving a denial of employment based on the criminal background check results.

The President will consider any explanatory information submitted for reconsideration. All decisions made at this level are final and are not eligible for appeal/grievance. Appeal decisions will be provided to the candidate in writing within ten business days after the written submission of appeal is received.

(Revised 04/14/2014)

CRIMINAL BACKGROUND CHECK WORKSHEET FOR DOCUMENTING THE SENSITIVE DESIGNATION OF A POSITION

St. Mary's College of Maryland requires a criminal background check whenever an individual is

a) newly hired or b) when an existing employee is transferred or promoted to the extent that the sensitivity of the new position is significantly different than the sensitivity of the existing position. All staff and faculty positions are understood to involve, at some level, the care, safety and security of people and property and as such, all positions are considered sensitive.

This form is to be completed to identify the characteristics of specific positions to be used as the criteria for evaluating suitability to hire in the event that an individual offered employment, or an existing employee changing positions, have a criminal conviction(s). Please check all boxes that apply and provide justifying comments. You can use the last bullet to incorporate a justification or criterion that is not included in the list. When the form is complete, please sign and date the form and submit the original copy to the Vice President for Business and Finance or to the Dean of Faculty for their signature. Please retain a copy in the departmental file on recruitment. The policy is located at <http://www.smcm.edu/hr/policies.html>

Date: _____

Position Title: _____

Sensitive Characteristics:

- Care, safety and security of people and property.

All staff and faculty positions are understood to involve, at some level, the care, safety and security of people and property.

- Senior management of the campus (positions that are at a director level or above).

- Positions requiring a high degree of integrity with public confidence in the individual occupying the position.

- Direct access to or control over financial resources in excess of \$5,000.

