

ST MARY'S
COLLEGE of MARYLAND
The Public Honors College

Office of Human Resources

TO: Hiring Departments
FROM: Melvin A. McClintock, Assistant Director of Human Resources/AA/EEO Officer

Attached are: Affirmative Action Guidelines for Staff, Administrative and Faculty Searches
Interviewing and Hiring Process Guidelines
Criminal Background Policy and Guidelines
A standard template to use for your advertisement
Welcome template
Questions that, if asked, could be regarded as discriminatory
Minority Recruitment Resources

These guidelines should be reviewed and used to help you to successfully complete your search to fill a vacant position. If you have questions concerning any of the guidelines, you may contact the Assistant Director of Human Resources/AA/EEO Officer or the Director of Human Resources at extension 4309.

IMPORTANT NOTE: Before a job offer is made you must contact Human Resources to check the candidate's name in the State of Maryland's database according to a new state law effective October 1, 2012. This is not a criminal background check.

NOTE: After Human Resources notifies the hiring manager that their new employee successfully completed the criminal background check process, the hiring manager should confirm the start date and send a welcome announcement to faculty and staff. Onboarding process begins.

AFFIRMATIVE ACTION GUIDELINES STAFF AND ADMINISTRATIVE STAFF SEARCHES

It is the policy of St. Mary's College of Maryland to provide equal opportunity in education and employment for all qualified persons; to prohibit discrimination in employment because of age, citizenship, color, disability, national origin, race, religion, sex, sexual orientation, or special disabled veteran and Vietnam veteran status; and to promote equal employment opportunity through well-managed employment practices.

The College's Affirmative Action Plan notes that for staff and administrative staff searches the College advertises broadly, recruits vigorously, and hires qualified candidates. Additionally, the plan provides that the College uses every resource available to attract qualified women and minority candidates.

These guidelines have been developed to help achieve the College's affirmative action plan. Questions about the guidelines should be directed to the College's affirmative action officer, or human resources officer.

Job Review

The first step in staff and administrative staff recruitment is to define the position for which you are hiring. Many position descriptions are already on file in the human resources office, but you should review the position description to ensure that it includes the essential job functions.

Once the description for the vacant position is developed, the description should not change during the course of the search. If changes need to be made in the position description, you must consult with the affirmative action officer.

Criminal Background Check

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. Beginning July 1, 2014, 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). Applicants hired or promoted will need to complete an authorization form giving the College permission to conduct a background investigation. Job offers made are contingent upon this investigation. The College will conduct and utilize these background investigations as they relate to the fitness of duty for a particular position, in accordance with the law.

Recruitment

The College's Affirmative Action Plan requires a vigorous search for all positions. *Please consult with the affirmative action officer in developing your recruitment plan.* The recruitment plan should achieve the goal of recruiting a diverse pool of qualified applicants within reasonable advertisement expenses.

Depending on the nature of the position you are filling, your recruitment plan might include an advertisement in publications of professional associations of minorities or women. Your recruitment plan also might include posting a hiring notice on a list serve or on the Internet.

Advertisement

The college editor has developed a standard opening paragraph to use in searches. This template is attached to these guidelines for you to use in drafting your advertisement. Please use the template so our advertisements will be consistent. If you include demographics beyond the number of students in your advertisement, please refer to the current issue of the Fact book to be sure that your figures are accurate.

You have several choices in setting an application deadline in your advertisement. They are:

- 1) Have a firm deadline, for example, January 15.
- 2) Have a rolling deadline, for example, stating that applications will be reviewed beginning January 15 and review will continue until the position is filled.
- 3) No deadline. Review of resumes will begin immediately and continue until the position is filled.

All advertisements should state: St. Mary's College is an affirmative action/equal opportunity employer.

Diversity

The search committee chair meets with EEO Officer to assess the diversity of the candidate pool in total and of the proposed long list. The EEO Officer screens proposed long list name against the state database. The search chair reviews EEO data with Vice President and either proceeds with long list selection or alters recruiting strategy.

The search committee interviews long list of candidates and selects short list. The search committee chair provides the EEO Officer with the names of the short list applicants and receives information on the diversity of the short list. The search chair reviews EEO data with their Vice President. With the Vice President's approval, short list applicants are brought to campus for interviews.

Screening applications

Before screening applications, the search committee or individual responsible for the hiring should develop the selection criteria for the position. These criteria must relate directly to the duties of the position as initially identified in the position description and as stated in the advertisement. These criteria must be followed throughout the search process. For example, if your advertisement states that a high school diploma is required, you should not consider hiring an applicant who has completed no more than the tenth grade.

Do not make notes on original applications.

During the screening process, you should avoid stereotyping applicants. For example, an applicant should not be rejected because a search committee member wonders why a College graduate would want a clerical position. Some candidates may have non-traditional career paths and they should not be excluded on this basis.

Material in an applicant's file is confidential. Only members of the search committee or the individual responsible for the hiring should review applications until candidates are ready to be interviewed. At this stage, anyone who will interview the candidate can be given access to the application.

Interviewing applicants

Mandatory Diversity Question for Administrative/Staff Searches: How will your employment at the College contribute to a culture of inclusion and campus diversity?

Mandatory Diversity Question for Faculty Searches: How will your teaching at the College contribute to a culture of inclusion and campus diversity?

Interviews should be carefully planned. Interview questions should be written in advance of the interview and each applicant should be asked the same questions. Different or follow-up questions may be asked of a particular candidate to clarify an answer given in response to a question or to expand on material in the applicant's resume as long as the questions are nondiscriminatory and job-related.

Interview questions should focus on the job requirements. Questions not related to the job description may be considered discriminatory. A copy of questions that could be regarded as discriminatory is attached. Please see the affirmative action officer if you have any concerns about questions you might ask during an interview.

Checking references

Checking references is one of the most important steps in deciding which applicant to hire. Just as in selecting interview questions, selecting questions to ask of references requires careful planning to ensure that you get the information you seek and to ensure that you do not ask questions that may be discriminatory. Please consult with the affirmative action officer if you have any concerns about questions to ask a reference.

Before beginning to check references, it is courteous to inform the candidate that you intend to begin checking references. This gives the candidate an opportunity to alert references to expect a call. It is also best to refrain from contacting potential references not listed on an applicant's list of references unless you get specific permission from the applicant. The reasons for this are several. First, the applicant may not want certain individuals to know they are engaged in a job search. Second, the applicant may be able to supply you with reasons as to why that individual might not be able to give a favorable recommendation. Information that will be helpful to you in deciding how to evaluate what a reference has told you. It certainly is permissible, even wise, to wonder why an obvious person is not listed as reference. Just be sure to get the applicant's permission before contacting that individual.

Communicating with applicants

Each applicant should be sent a letter acknowledging receipt of the application. This letter should ask the applicant to fill out an affirmative action card and return it to the affirmative action office. The letter should also inform the applicant about when the hiring decision will be made. After a candidate is hired, each applicant should be sent a polite letter announcing the hire.

Applications must be kept for three and one-half years. Questions about when applications can be destroyed should be addressed to the human resources office. (See page 5 of the Interviewing and Hiring Process.)

Good luck on your search. I stand ready to assist you with your search in any way I can.

(Revised 01/01/16)

INTERVIEWING AND HIRING PROCESS

St. Mary's College is committed to sound, legal hiring practices. When interviewing candidates it is essential to avoid any form of discrimination, intentional or unintentional. Everyone who interviews must be aware of areas in which even apparently innocent questions, asked in good faith, can leave the College and the interviewer open to costly and time-consuming charges of discrimination.

Discrimination charges can be filed by individuals who feel they have been denied a job because of race, citizenship, color, age, religion, national origin, sex, or disability. When in doubt as to the suitability of a question or action, get clarification from your human resources officer or EEO/AA Officer.

The following are guidelines and information to use when interviewing candidates.

QUESTIONS TO AVOID

DO NOT ask questions regarding an applicant's:

- Race, religion, color, sex/sexual orientation, gender identity and expression, national origin
- Height & weight (permissible after a job offer has been made as part of the entrance physical examination)
- Marital status
- Children and child care arrangements
- Arrests
- Type of military discharge
- Age
- Economic status
- Medical condition
- Physical or mental disability
- English language skill

Race and Color. Federal and state laws prohibit discrimination on the basis of race or color. Therefore, questions concerning an applicant's race or color may not be asked. Question aimed at soliciting the candidate's opinion about one race or another, or working with other races should likewise be avoided.

Religion. Avoid all questions which might solicit information about an applicant's religious background or affiliation. These include questions about the origin of a last name or current or past affiliations, such as college fraternities.

When Friday night, Saturday or Sunday work or weekend overtime is required, it is *appropriate* to ask if the applicant is willing and able to work the days in question.

Sex. There are very few jobs which must be performed by one particular sex only. While an applicant's sex is usually obvious in a face-to-face interview, sex cannot be used as a reason to hire or not hire an applicant. Employers who select candidates on the basis of sex should be prepared to prove that sex is a bona fide occupational qualification. (BFOQ). An applicant's pregnancy, childbirth, and related medical conditions likewise do not automatically disqualify an applicant for employment.

National Origin and English Language Skills. The same comments which were made regarding an applicant's race, color and religion apply here as well.

The Immigration Reform and Control Act (IRCA) of 1986 prohibits the employment of unauthorized aliens. The Act forbids employers from knowingly hiring or recruiting for work aliens who are not authorized to work in the United States. Unauthorized aliens include those aliens who are not either lawfully admitted for permanent residence or authorized by the United States Citizenship & Immigration Services (USCIS), Department of Homeland Security to be employed. An employer must obtain from all new hires documentation proving that s/he is a citizen or national of the U.S., an alien lawfully admitted for permanent residence, or an alien authorized to be employed in the U.S.

The Act makes it unlawful for employers to discriminate based on national origin or citizenship status.

Q: Can an interviewer specifically ask an applicant to verify eligibility to work in the United States during a pre-employment interview?

A: During the recruiting interview, questions such as, "Are you an American citizen?" may be viewed as discriminatory and should be avoided. However, upon hire, the employee must provide original documentation of evidence of identity and employment eligibility to the personnel office within three (3) business days of the date employment begins or the employer must remove him/her from payroll.

If an employer can prove that certain language skills are required (BFOQ) in order to perform the job, then it is acceptable to ask what languages are spoken fluently. It is not acceptable to ask how or where the candidate learned those languages, or where the applicant or the applicant's parents were born.

Note: An employer is permitted to choose a U.S. citizen over an equally qualified alien, but may not hire a U.S. citizen over a more highly qualified alien who is eligible to work in the U.S.

Height and Weight. Minimum height and weight requirements for a job may be discriminatory under federal law absent a bona-fide occupational qualification defense. Therefore, such requirements must be proven to be a job-related necessity to be permissible. Statistical evidence correlating height and weight requirements with job performance or safety is potentially acceptable according to the EEOC's Uniform Guidelines on Employee Selection Procedures.

The evidence must show that an applicant who does not meet these requirements cannot perform the job adequately and safely.

Marital Status, Children, and Child Care. The rule of thumb here is quite simple: do not ask a woman what you would not ask a man. And vice versa. It is *never* permissible to ask anyone whether he or she is married, has children, how their children will be cared for, what the applicant's spouse does for a living or how their family will react to the applicant traveling on the job. If overtime, early hours, or travel is part of the job, it is acceptable to state this and to ask if the applicant will be able to meet those job requirements.

Arrests. The EEOC and the courts recognize that employers have a legitimate right to know whether an applicant has ever been convicted of crimes. It is not permissible to ask an applicant about any arrests. But it is acceptable to ask if the candidate has ever been convicted, and a good interviewer should ask for details. (For example, someone who has been convicted of embezzlement is probably not a good match for a job handling a lot of money.) An arrest without a resulting conviction does not serve as proof that the arrested individual committed an illegal act. Therefore, it is not permissible to ask an applicant about arrests. It is appropriate to ask, "Have you ever been convicted of an unlawful act other than a minor traffic violation?" If the answer is "yes" the crucial question is whether or not the offense relates to performance of the particular job.

"Criminal convictions are not an absolute bar to employment but will be considered only with respect to the specific requirements of the job of which an applicant is applying."¹

Military Record. Any information about military experience that relates to a job will surface when the candidate is asked about specific job skills, knowledge or experience. If an applicant was court martialed and served any term in prison as a result, this should surface when the applicant is asked about prior convictions.

Age. Federal law prohibits discrimination on the basis of age (people age forty and over are specifically protected under this law). Therefore, questions directly or indirectly relating to age should be avoided. Questions that might indicate the applicant's age should be avoided, for example, year of high school graduation, ages of children, whether a veteran fought in a specific war, etc.

Economic Status. Questions concerning the financial status of the applicant (e.g., credit history, wage garnishment, home and automobile ownership, bank and charge accounts) may negatively affect certain minority groups and single women. In addition, the relationship of personal finances to some job requirements may often only be tangential. On the other hand, an employer may have a legitimate interest in whether an applicant has the use of an automobile and/or access to reliable transportation. Treating applicants differently on the basis of personal finances may, depending on the circumstances, violate federal or state law. Under the Fair Credit Reporting Act, if employment is denied on the basis of a credit report prepared by a consumer-reporting agency, the employer must advise the applicant of the report's existence and that it was the reason for denying employment. Under the federal bankruptcy code, an employer may not discriminate against an applicant or employee who has filed for bankruptcy. [11USC§525(b)]

¹ Employment Law, Fourth Edition, Mark R. Filipp, Esq., Thomas L. Boyer, Esq., James O. Castagnera, Esq.

Medical Condition and Physical Disability. It is illegal to eliminate a disabled person or persons suffering from some medical condition (cancer, mental illness, heart disease, HIV and AIDs) from consideration for a job, unless it can be shown that the disability, with or without reasonable accommodation, prevents the applicant from performing essential job functions that will measurably and adversely affect job performance or safety. It is also illegal to discriminate against an applicant regarded as having a disability or an applicant who associates with people with disabilities.

Questions during the interview should focus on the applicant's ability to do the job -- not on disabilities.

Acceptable questions include: The job involves stacking cartons of nails at the end of our packing line. Can you lift 50 pound weights regularly during an eight-hour shift? or, The position involves attending frequent meetings in other states. Overnight travel is involved. Can you perform these functions? or, "Can you perform the essential functions of this position?"

There will be some candidates who volunteer information about one or more of the foregoing subject areas. The appropriate response when that happens is to tell the applicant that the information is not pertinent to the job specifications or performance.

There are practical reasons to avoid these areas of questioning. Even if the answer to an illegal question is not used as part of a hire/no hire decision, the fact that it was asked, and that the applicant was not hired, can be grounds for filing a complaint. Asking these questions is rarely worth the trouble if an applicant chooses to complain.

Questioning Techniques

How an interviewer asks a question is as important as what is asked. There are several ways of asking the same question; each method might be appropriate at different times during an interview.

A well-prepared interviewer will have developed an interview plan and have prepared a written list of questions that are related to the knowledge, skills, and abilities required. The plan will list areas of the applicant's background which need further probing, points needing clarification, or "red flags" (possible problems) which need investigating. And there will be some topics of importance about which nothing is stated on a resume or job application. All points in a plan should be covered; some areas will need more time than others to cover.

"Red Flags"

These items alone would not necessarily disqualify a candidate. But they are indicators of possible problems, and should be investigated if the applicant seems otherwise qualified for the position and is worthy of an interview.

Watch for gaps in the job history. Find out the reasons for these gaps, and don't let the lack of job dates slip by unnoticed. Always confirm dates with applicants and investigate the reasons for the gaps. Sometimes they are legitimate: an applicant may have taken time out from a career to raise a family; an applicant may have been careful about selecting a new job, etc.

A lengthy section on classes and seminars attended often is included because the candidate lacks the appropriate education and/or the required minimum experience.

Interviewers should always:

- Ask the same general questions and require the same standards for all applicants;
- Treat all applicants with fairness, equality, and consistency;
- Follow a structured interview plan that will help achieve fairness in interviewing;
- Ask questions that are relevant to the job itself;
- Be professional and consistent in addressing men and women;
- Treat the candidate in a businesslike, yet relaxed way.

After the interviews have been completed:

Review the minimum qualifications, position description, and other items quoted in your advertisement for the position to determine once again the applicant who best matches the position. The use of a “best match” concept is replacing the “best qualified” for a position since several candidates may have equal qualifications. *An all-important caveat is to be sure candidates are evaluated only against selection criteria.*

- At the time of the interview, let the candidate know when s/he can expect to hear from you and whether it will be by letter or phone. If the date is delayed, let the candidates know of the delay and announce a new decision date.
- Refrain from making a formal job offer until appropriate references have been checked. You should tell the applicant that s/he is one of the final candidates and that you will be calling his/her references.
- Once the selection process is complete, unsuccessful candidates should be informed in writing that they have not been selected.

All applications must be kept on file for three and one-half years after selection of a candidate. This ensures that if a complaint or lawsuit is filed, the College will have all documents that may be relevant to the issues in the case. If a lawsuit or complaint is filed, no documents relating to the search should be disposed of until the Office of Human Resources or the Attorney General’s Office advises you the documents will no longer be needed.

Template for Advertising Administrative/Staff Positions

Title of Position

St. Mary's College of Maryland at Historic St. Mary's City is accepting resumes for the position of **{Insert position title}**. *{Insert job responsibilities here.}*

Qualifications: *{Insert qualifications here.}* Any combination of acceptable education and experience, which has provided the necessary knowledge and skills to fulfill the requirements of this position, may be considered. Employment will be contingent upon successful completion of a criminal background check. Salary: *{Insert salary.}*

Non-sectarian since its founding, St. Mary's College of Maryland, a public Carnegie Baccalaureate, Arts and Sciences institution located in Historic St. Mary's City, 70 miles southeast of Washington, D.C., has been designated as Maryland's public honors college. Undergraduate and residential in nature, with a diverse coeducational student body numbering approximately 1800, St. Mary's emphasizes excellence in teaching. The institution was awarded a chapter of Phi Beta Kappa in 1997. The quality of life is enhanced by the recreational opportunities of the Chesapeake region and close proximity to the amenities of Washington D.C., Baltimore and Richmond.

St. Mary's College (www.smcm.edu) embodies diversity and inclusion in its mission. We create an environment that recognizes the value of individual and group differences and we encourage inquiries from applicants who will contribute to our cultural and ethnic diversity. Application materials should include a cover letter, résumé (including e-mail address), statement of how the applicant's employment at the College will contribute to a culture of inclusion and campus diversity, and three references and submitted online at: apply.interfolio.com/ . Questions may be directed to: **{enter name and email address}**

Review of résumés will begin immediately and continue until the position is filled. St. Mary's College of Maryland is an affirmative action/equal opportunity employer.

Visit our website: www.smcm.edu/hr

Template for Advertising Faculty Positions

St. Mary's College of Maryland at Historic St. Mary's City is accepting applications for the position of Enter position title here. Enter job summary and qualifications here. An interest in attracting and retaining students from underrepresented groups is desirable.

Non-sectarian since its founding, St. Mary's College of Maryland, a public Carnegie Baccalaureate, Arts and Sciences institution located in Historic St. Mary's City, 70 miles southeast of Washington, D.C., has been designated as Maryland's public honors college. With highly selective admissions policies, academically talented students, and a rigorous curriculum, we offer a small college experience similar to that found at exceptional private colleges. St. Mary's faculty benefit from a comprehensive program of support for scholarship, research, travel, and curriculum development, including course releases for pre-tenure faculty and leaves for tenured faculty. The quality of life is enhanced by the recreational opportunities of the Chesapeake region and by our proximity to Washington, D.C. and Baltimore.

St. Mary's College (www.smcm.edu) embodies diversity and inclusion in its mission. We create an environment that recognizes the value of individual and group differences and we encourage inquiries from applicants who will contribute to our cultural and ethnic diversity. Application materials should include a cover letter, curriculum vitae (including e-mail address), statement of teaching philosophy, statement of how the applicant's teaching at the College will contribute to a culture of inclusion and campus diversity, statement of research interests, evidence of teaching effectiveness (if available), and three letters of recommendation. Applications are being accepted online at: apply.interfolio.com/ . Questions may be directed to: enter name and email address.

Review of applications will begin immediately and continue until the position is filled. Employment will be contingent upon successful completion of a criminal background check. St. Mary's College of Maryland is an affirmative action/equal opportunity employer.

Visit our website: www.smcm.edu/hr

WELCOME TEMPLATE – Email all faculty and staff

Dear Campus Community,

It is my pleasure to announce that **Name** will be the next **Title** for St. Mary's College of Maryland. **First Name** comes to St. Mary's from **Place** where s/he has held the position of **Enter Position** since **Year**. **First Name** plans to begin his/her position with St. Mary's on **Date**.

A strong pool of candidates applied and the search committee selected accomplished, qualified and distinctive finalists. I want to thank the **Name of** Search Committee and everyone on campus who contributed to this successful search.

Please join me in welcoming **Name** and his/her family to St. Mary's College.

Sincerely,

Your name

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.

- Signature authority to commit financial resources of the College through contracts in excess of \$5,000.

- Control over campus-wide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, HRIS and Payroll functions).

- Access to detailed personally identifiable information about students, faculty, staff, or alumni which might enable identity theft.

- Possession of building master or sub-master key access to any residence facility that includes access to private living areas.

- Other sensitive concerns.

Signature Department Representative

Department

Phone

Signature of Vice President for Business and Finance
or the Dean of Faculty

Date

(Revised 08/29/14)