



VII – 1.15 – A - Coppin State University’s Background Check Policy and Procedures for Faculty and Staff Employees

(Effective January 1, 2017)

In order to protect the campus community, students, staff, and guests, as well as to secure the integrity of Coppin State University (University), it needs to ensure that all job candidates offered employment and status change employees that take on new roles have no history of criminal behavior that could jeopardize the safety and security of the University community. In addition to verifying prior employment history and criminal background checks, the University may verify social security numbers, credit history, education credentials, professional licenses, motor vehicle, electronic media sources and sex offender registries, as deemed necessary. The University reserves the right to use a *Commercial Criminal Background Check* vendor to verify this information. Nothing herein is intended to contradict or lessen compliance with applicable federal, state or international laws and regulations. The University reserves the right to modify this policy at any time without notice.

I. Scope

The University’s criminal background check will be consistent with [USM’s VII – 1.15 – Policy on Criminal Background Checks for Faculty and Staff Employees](#). It applies to all regular and contractual faculty, regular and contingent staff, applicants for employment, volunteers, chaperones of camps and enrichment programs or any position that involves working with minors, adult dependent populations and positions that transport hazardous materials. All offers of employment at the University are contingent upon satisfactory results of a thorough criminal and employment background checks. The Office of Human Resources will conduct background checks on **all** candidates for new hire, rehire and reinstatement that have more than 3 months of separation from the University, and transfers from other state agencies. The hiring manager is required to contact the Office of Human Resources to coordinate the processing of all hiring documents including the background checks on all Contingent I and adjunct faculty. Current employees that change positions or acquire new responsibilities that involves managing sensitive materials may be required to have an updated or new credit history or criminal background check. This includes employees working in an interim or acting capacity.

II. Purpose

This policy will define the University’s standards and procedures for the acquisition and use of *employment and criminal background checks*. It will outline procedures for maintaining confidential records of all background check results, consistent with applicable federal and state legal requirements. It will describe the types of training for employees who interview and hire employees regarding the appropriate methods for acquiring, using and maintaining background check information. It will establish a process by which an individual denied employment or other opportunity at the University, due to the results of a criminal background check, may contest the accuracy of the records upon which the denial was based.

III. Definitions

- A. *Commercial Criminal Background Check*: A criminal background check completed by a commercial entity through a review of publicly available law enforcement, court and other records, including international records as appropriate. A commercial criminal background check typically is based upon identifying information regarding the individual, but does not utilize fingerprints.
- B. *Criminal Justice Information System (CJIS) Record History*: A criminal background check completed by the Maryland Department of Public Safety and Correctional Services of all criminal history information regarding an individual maintained by the CJIS Central Repository, consistent with the requirements of the Maryland Annotated Code (Md. Code Ann.), Criminal Procedure Article , Sections 10-201 et seq. A CJIS record history is based upon national and state criminal history records and uses an individual's fingerprints and other identifying information.
- C. *Educational Verification*: Confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.
- D. *Federal Criminal History*: Checks district courts for any crimes committed in violation of federal law in district of current residence.
- E. *Minor*: An individual under the age of 18.
- F. *Multi-County Criminal*: Will be run on counties that applicants have listed on the release form. This will include counties of past residence for a period of up to 7 years.
- G. *Permissive Criminal Background Check*: A commercial criminal background check or CJIS Record History that is not required by law, but is permitted at an University's discretion.
- H. *Personal and Professional References*: Calls will be placed to individuals listed as references by an applicant.
- I. *Prior Employment Verification*: Confirms applicant's employment with the provided companies, including dates of employment, position held and additional information available pertaining to salary/wages, performance rating, and reason for departure and eligibility for rehire. This will be reviewed on the past two employers or ten years, whichever is longest.
- J. *Program Involving Minors*: For the purposes of this policy, a program or event hosted by or closely associated with the University in which:
 - 1. The program's purpose is to provide benefit, service or activity to or for minors;
 - 2. University personnel have significant roles or regular contact with minors; and
 - 3. Not including spontaneous gatherings, single social events or academic courses open to and attended by both minors and adults.
- K. *Social Security Cards*: Validates the applicant's social security number, date of birth and former addresses.

- L. *Status Change*: Current employees changing positions, appointed to an interim or acting capacity positions may transition into the new position with the understanding that continued employment is subject to results of their background check.

The following additional searches will be required if applicable to the position:

- A. *Credit History*: Confirms candidate's credit history. This search will be run for positions that involve management of the University's funds and/or handling of cash.
- B. *Motor Vehicle*: Provides a report on an individual's driving history in the state requested. This search will be run when driving is an essential requirement of the position.

IV. Standards and procedures for the acquisition and use of employment and criminal background checks:

1. Applicants will be advised that a satisfactory employment verification and criminal background check is required as a condition of employment during the application process. All applicants must consent to an employment verification and criminal background check during the application process.
2. Before a verbal offer of employment is made, the Office of Human Resources (OHR) will complete prior employment verifications on the new or rehire candidate. Faculty employment verifications will be conducted by hiring department. Employment references provided must include at least the last 10 years of employment history. Status change employees' references require that a reference must be received from the current supervisor. Prior Performance Reviews may be used in addition to the reference from the current supervisor if a more extensive review is required.
3. Current employees seeking a position status change, the OHR will assess the need for credit history and/or criminal background investigations, considering length of employment and new job description. Rehires with a break in service for more than 90 days are subject to criminal background check.
4. After a verbal employment offer is made, the chosen candidate or status change employee (if applicable) must complete and sign the Certification/Release and Criminal Justice Information Systems (CJIS) form then return it to the OHR for positions that involves working with minors, adult dependent populations and positions that transport hazardous materials. For candidates who are not working with these populations, a criminal background check will be conducted through the approved online background service vendor. This background check requires an electronic signature from the candidate in order for the background check to be conducted. The OHR will initiate the CJIS form and the on line background check. ***The chosen candidate is not to begin work prior to the hiring manager receiving approval from the OHR.***
5. The OHR will conduct the criminal background check upon selection of a final candidate and the receipt of a signed release form or online electronic signature approval. The University's designated *Commercial Criminal Background service* or online background service vendor will conduct the check. The Chief Human Resources Officer (CHRO) or designated Human Resources representative will review all results.
6. Convictions discovered in the background check process will influence the final selection of the applicant where such information is considered relevant as defined under standards described in USM VII, 1.15-IVc, A,B,C.
7. In instances where negative or incomplete information is obtained, the CHRO and/or designated Human Resources representative will assess the potential risks and liabilities related to the job's

requirements and determine whether the individual should be hired. The CHRO and/or designated Human Resources Representative will notify the candidate and the hiring manager of the approval or denial as the results of the background check. Please refer to section VII-A & B, for provisions for contesting negative background check results.

A. Reporting Convictions Requirement:

Any employee convicted of a crime, beyond a traffic infraction, must inform the CHRO and their supervisor of this conviction within five business days. The University, through the Office of Human Resources, reserves the right to request a background investigation when circumstances are identified that warrant further investigation. Results of the background investigation normally will not affect opportunities for continued employment. However, if the information discovered regarding prior or current convictions leads to the conclusion that the safety of students, clients, and coworkers may be compromised, the individual may be reassigned or terminated. Reporting of convictions is applicable to all employees, regardless of whether their positions were subject to an original background investigation.

V. Procedures for maintaining confidential records of all background check results

- a) The CHRO and/or OHR designee will be responsible for maintaining and securing all background check results records.
- b) Background investigation records will be received and maintained as part of a confidential file in the OHR, separate from employee personnel files.
- c) The CHRO and/or OHR designee is responsible for the management of the policy, including overseeing the background investigation process, maintaining confidentiality of information received, informing the Human Resources staff overseeing the hiring and the hiring department of the candidate's ineligibility to be hired.

VI. Training for Human Resources Representatives who interview and hire employees

All Human Resources Representatives in charge of hiring will receive appropriate training of the USM VII, 1.15 policy, and this policy/procedures. They will understand the appropriate methods for acquiring, using and maintaining background check information.

VII. An individual denied employment or other opportunity at the University due to the results of a criminal background check may contest the accuracy of the records.

- A. Prior criminal history will not automatically disqualify a candidate for consideration. An assessment of each candidate will be conducted and hiring decisions will be made in accordance with all applicable laws and fair practices. In cases where the results of the background checks are determined unsatisfactory, the candidate will be notified in advance of the University's taking action with the intent not to hire. In instances where negative or incomplete information is obtained, the CHRO will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired in accordance to USM VII, 1.5, IV., A, B, C. The Human Resources representative will notify the hiring manager regarding the results of the check if there is a determination not to hire.
- B. If the candidate is not hired or promoted based on the background check results, the candidate has five (5) business days from the date of notice, to send a written appeal to the University's OHR, CHRO to contest the accuracy of the results. The CHRO will review the appeal to determine if

there was an error in the accuracy of the background check results. The CHRO will provide final decision within 15 days of receiving written appeal and send it to the candidate's home address on file.

VIII. Responsibilities

Department Heads, Hiring Supervisors and/or Human Resources Liaisons will be responsible for their department's adherence to this policy, including clear communication of this requirement to job candidates.

Human Resources is responsible for the management of the policy, including overseeing the background investigation process, confidentially reporting employment ineligibility to the appropriate individual in the hiring department, and the confidential storage (to the degree possible) of all findings separate from the employee personnel files.

IX. Sanctions

Those who violate the terms of this policy, including violations of confidentiality, are subject to disciplinary action, including termination. Failure to disclose accurate information to avoid obtaining information of criminal conviction(s), is deemed to of have provide falsification of application and may result in termination. An employee who fails to disclose being convicted of a crime within five (5) business days is considered to be in violation of a condition of continued employment and may result in termination.

X. Fair Credit Reporting Act (FCRA) and State's laws on background checks

The University will follow all applicable FCRA requirements throughout the background check process. The University will comply with federal laws under the [Fair Credit Reporting Act \(FCRA\)](#), as well as the [state's laws on background checks](#). The FCRA requires that employers using consumer reports (background checks) for employment purposes must provide employees and applicants with a written disclosure and obtain their electronic and/or written consent before obtaining this report. The OHR representative will be responsible for handling such FCRA requirements as necessary. Any questions regarding FCRA must be directed to the CHRO or the OHR designee.

XI. Effective Date and Approval

This policy is effective January 1, 2017. This policy shall be reviewed and revised annually, if necessary, to become effective at the beginning of the University's fiscal year, unless otherwise noted.

The U.S. Equal Employment Opportunity Commission on April 25, 2012, approved guidance on employer use of criminal background checks. In short, the EEOC guidance does not prohibit employers from considering criminal information during the hiring process. However, it does require employers to take new steps to prevent discrimination under Title VII of the Civil Rights Act of 1964.

Note: This policy should be cross-referenced with the following other USM Policies:

- VII - 1.50 – Policy on Criminal Background Checks for Faculty and Staff Employees**
- VI - 1.50 - Policy on the Reporting of Suspected Child Abuse and Neglect**
- VII - 1.01 - Policy on Recruitment and Selections**
- VII - 1.24 - Policy on Termination with Prejudice**

USM Bylaws, Policies and Procedures of the Board of Regents

VII – 1.15 - POLICY ON CRIMINAL BACKGROUND CHECKS FOR FACULTY AND STAFF EMPLOYEES

(Approved by the Board of Regents, April 15, 2016)

I. PURPOSE AND SCOPE

- A. Purpose: To establish minimum standards for the appropriate acquisition and use of criminal background records in order to support safe and secure campus environments.
- B. Scope: Applies to all regular and contractual faculty and regular and contingent staff, student employees (including students in federal and other work-study programs), and applicants for employment.

II. DEFINITIONS

- A. Commercial Criminal Background Check: A criminal background check completed by a commercial entity through a review of publicly available law enforcement, court and other records, including international records as appropriate. A commercial criminal background check typically is based upon identifying information regarding the individual, but does not utilize fingerprints.
- B. Criminal Justice Information System (CJIS) Record History: A criminal background check completed by the Maryland Department of Public Safety and Correctional Services of all criminal history information regarding an individual maintained by the CJIS Central Repository, consistent with the requirements of the Maryland Annotated Code (Md. Code Ann.), Criminal Procedure Article , Sections 10-201 et seq. A CJIS record history is based upon national and state criminal history records and uses an individual’s fingerprints and other identifying information.
- C. Minor: An individual under the age of 18.
- D. Permissive Criminal Background Check: A commercial criminal background check or CJIS Record History that is not required by law, but is permitted at an institution’s discretion.
- E. Program Involving Minors: For the purposes of this policy, a program or event hosted by or closely associated with the institution in which:
 - 1. The program’s purpose is to provide benefit, service or activity to or for minors;
 - 2. Institution personnel have significant roles or regular contact with minors; and
 - 3. Not including spontaneous gatherings, single social events or academic courses open to and attended by both minors and adults.

III. ACQUISITION OF CRIMINAL BACKGROUND RECORDS

- A. **Mandatory Criminal Background Checks.** Under state and federal law, institutions are required to obtain and review pre-employment CJIS criminal background checks for their employees under the following circumstances:
1. **Certain Programs Involving Minors.** Institutions must require pre-employment CJIS Record History checks of employees of certain programs involving minors operated by the institutions, as required by Md. Code Ann., Family Law, Section 5-561, including, but not limited to:
 - a. Child care centers;
 - b. Public primary and secondary school programs;
 - c. Recreation centers or programs primarily serving minors; and
 - d. Day or residential camps, as defined in COMAR Title 10, Subtitle 16, primarily serving minors.
 2. **Other Activities Requiring Background Checks for Institution Employees.** In addition to the programs described in Section III.A.1, above, institutions are required to obtain and review pre-employment CJIS Record History checks for certain individuals employed in the following circumstances:
 - a. **Programs Serving Adult Dependent Populations.** Under federal and state law (42 U.S.C.A. Section 12645(g) and Md. Code Ann., Health-General, Section 19-902), a CJIS Record History check is required for employees who work in adult dependent care programs. Examples include programs serving the elderly and dependent adults and adult dependent individuals with disabilities.
 - b. **Employment in the Transportation of Hazardous Materials.** CJIS Record History checks are required for all employees who have a commercial driver's license with a State-issued hazardous materials endorsement, consistent with federal and state law, including 49 U.S.C.A. Section 5103a and Md. Code Ann., Transp. Article, Section 16-815.
- B. **Permissive Criminal Background Checks**
1. In addition to the circumstances under which an institution must obtain and review a criminal background check, described in section III.A, above, institutions also have the discretion to require background checks of other employees, applicants, and institution volunteers.
 2. Each institution shall have standards and processes for guiding the acquisition of permissive criminal background checks.
 3. An institution may elect to obtain criminal background checks with respect to any position. Examples include:
 - a. Employees in facilities and programs other than those for which such background checks are mandatory, if the employee's duties involve contact with minors,

USM Bylaws, Policies and Procedures of the Board of Regents

- b. Institution volunteers who have access to minors in institution activities and programs, and
- c. Employees with:
 - i. Financial responsibilities, including access to cash and authority to expend institution resources;
 - ii. Access to controlled substances; or
 - iii. Other sensitive job duties.
- 4. Prohibited Actions. An institution may not inquire into the criminal background of an applicant for employment until after the institution provides the applicant an opportunity for an interview. Md. Code Ann., State Personnel and Pensions Article, Section 2-203.

IV. PROPER USE OF CRIMINAL BACKGROUND CHECKS

- A. Criminal Background Check Considerations. An institution's use of background checks in making employment decisions must be tailored to meet legitimate business needs, taking into consideration at least:
 - 1. The nature and extent of the employee's past criminal activities;
 - 2. The time elapsed since the activities took place; and
 - 3. The nature, duties and functions of the job.
- B. Nondiscrimination. The use of criminal background checks in an institution's employment decisions must be impartial, with no difference in their acquisition or use based on race, sex, religion, ethnicity, sexual orientation, gender identity, or other factors that might promote or imply discriminatory practice.
 - 1. Even a neutral policy or practice regarding background checks that has the potential to have a disparate impact on a class of individuals must be:
 - a. Related to specific job duties, and
 - b. Consistent with business necessity.
 - 2. No employee may be excluded from employment based upon generalized institution policies or practices regarding the use of criminal background checks without an individual assessment that includes the factors described in this section.
- C. Arrest Records. An institution may not deny employment to an applicant based solely on a record of arrest in the absence of a conviction, other criminal penalty or substantiation of facts underlying the arrest which relate to the applicant's fitness to perform the duties of the job.

USM Bylaws, Policies and Procedures of the Board of Regents

D. Commercial Background Checks. If an institution denies employment based upon background check information provided by a commercial vendor that qualifies as a Consumer Reporting Agency (CRA) under the federal Fair Credit Reporting Act, the institution shall:

1. Notify the applicant/employee in writing, and
2. Provide the applicant/ employee with a copy of the FCRA's report and a summary of the individuals FCRA rights.

V. CONTRACTS WITH VENDORS THAT OPERATE PROGRAMS FOR MINORS

A. Mandatory Background Checks. Institution contracts with vendors that operate camps, recreational or educational programs, child care centers or other services to minors on campus must require the vendor's compliance with mandatory background check requirements of this policy and state and federal law.

B. Permissive Background Checks. Such contracts may also require commercial criminal background checks as appropriate to protect the interests of the institution and the individuals served by the institution, consistent with the requirements of his policy.

VI. INSTITUTION RESPONSIBILITIES

No later than January 1, 2017, each institution shall:

- A. Develop standards and procedures for the acquisition and use of criminal background checks, consistent with this policy;
- B. Develop procedures for maintaining confidential records of background check results, consistent with applicable federal and state legal requirements;
- C. Provide training to employees who interview and hire employees regarding the appropriate methods for acquiring, using and maintaining background check information; and
- D. Establish a process by which an individual denied employment or other opportunity at the institution due to the results of a criminal background check may contest the accuracy of the records upon which the denial was based.

Note: This policy should be cross-referenced with the following other USM Policies:

- VI - 1.50 - Policy on the Reporting of Suspected Child Abuse and Neglect
- VII - 1.01 - Policy on Recruitment and Selection
- VII - 1.24 - Policy on Termination with Prejudice