

# Criminal Conviction Investigations

**Responsible Office:**  
VCU Human Resources

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## POLICY STATEMENT AND PURPOSE:

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

The accuracy and completeness of the disclosure of prior law violations revealed or identified in the hiring/orientation process will be verified. Convictions disclosed or discovered in the hiring/orientation process generally will influence the selection of the applicant only where such offenses are considered "job related." Convictions related to drugs, violence, and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors, and institutional resources.

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## WHO SHOULD READ THIS POLICY:

All faculty and staff should read this policy.

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## RELATED DOCUMENTS:

Department of Social Services Background Checks for Licensed Child Day Care  
Centers Policy  
Federal Fair Credit Reporting Act  
State Policy 1.05, Alcohol and Other Drugs  
State Policy 2.10, Hiring  
VCU Alcohol and Drug Policy  
VCU Faculty Salary Administration Guidelines  
VCU Human Resource Policy on Employment, Promotion, and Transfer

Initial Policy Approved: 12/1/93

Last Revised 1/16/09

Revision History: 8/1/98

1/1/04

8/16/06

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## CONTACTS:

VCU Human Resources officially interprets this policy and shall revise or eliminate any or all parts as necessary to meet the changing needs of Virginia Commonwealth University. Please direct policy questions to VCU Human Resources.

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## DEFINITIONS:

### **Child Care Positions**

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

### **Rehire**

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

### **Resource Critical Positions**

Positions having access to or control over confidential student, employee, and/or patient data, and/or access to or control over significant institutional assets.

### **Sensitive Positions**

Positions having responsibilities for safety, such as police and security staff, positions with access to or contact with research animals, positions with access to certain hazardous materials, positions having responsibility for direct patient care, and other positions as deemed sensitive by management that require finger-printing.

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## PROCEDURE:

### **Applicant Disclosure**

Convictions disclosed during the application process may influence the referral and/or selection of an applicant where such information is job related.

### **Extent of Background Checks**

Human Resources will conduct confidential criminal conviction investigations as follows:

- Employees hired, transferred or promoted into “sensitive” positions require a fingerprint check (Virginia Code § 2.2-1201.1). These investigations are conducted through the VCU Police interface with the FBI’s database. They are conducted pre-employment where feasible.
- All other newly hired or rehired employees require an investigation conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven years.\* (Exception: those employees who do not yet have a social security number and are on a visa screened by the Department of Homeland Security are not rescreened).
  - The Virginia Department of Social Services also will conduct a Child Abuse and Neglect Complaints Central Registry check on applicants seeking hire, rehire, transfer or promotion into “child care” positions. The full process is re-done every three years during the incumbent’s employment.
  - Current employees seeking transfer or promotion into “resource critical” positions will undergo an additional background check conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven years.

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

### **Condition of Employment**

The University will investigate past criminal convictions as a condition of employment. Employment is subject to final review and evaluation of the criminal conviction history. All classified, hourly, student workers, graduate assistants, and

work study workers will be advised that a criminal conviction investigation is a condition of employment and that all convictions must be disclosed and included on the state application (through VCU's on-line application system). All faculty will be notified in their contract Terms and Conditions that the offer of employment is conditional upon job-related background checks and their consent to a criminal history records check.

Although most background checks will be conducted after the employee's initial hire date, these investigations may be conducted pre-employment as needed or as required by this policy. Criminal history records will be received and processed as part of a confidential practice in Human Resources.

### **Review Process**

Criminal conviction(s) identified in the hiring/orientation process will be confidentially reviewed by Human Resources or the hiring department (if a decentralized hire) and may render an applicant ineligible for holding a specific position(s). Any additional convictions that may be revealed from the criminal record check will be confidentially reviewed by Human Resources and may be considered cause for termination based upon the nature of the job and job relatedness of the conviction(s). Failure to disclose a conviction(s) is deemed falsification of application and may result in termination.

Current employees who apply for transfer or promotion into child care, resource critical, or sensitive positions will be subject to criminal history checks as described above under "Extent of Background Check." Information obtained through the check may affect the employee's ability to remain in the current position, depending on the relevance of the information to the position.

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

## **Investigations for Cause**

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