



COLLEGE of CENTRAL FLORIDA

ADMINISTRATIVE PROCEDURE

Title: Criminal Background Screenings

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Implementing Procedure For Policy # 6.05

Date Approved/Revised:
5/15/18

Division: Administration & Finance

I. Purpose

This Administrative Procedure is intended to establish procedures implementing College Policy 6.05 governing criminal background screenings in order to ensure that College employment decisions include consideration of each final candidate's criminal history in accordance with applicable laws and regulations. The purpose and intent of this procedure is to promote safe and secure job performance by employees of the College, thereby enhancing the College community and learning environment for students, faculty, staff, and guests. Criminal background screenings for volunteers and vendors are governed by other administrative procedures.

II. General Provisions

- A. The College will maintain criminal background screening practices to apply to current employees including those seeking transfer or promotional opportunities and external job applicants who are finalists for full and part-time positions which shall include (but are not limited to) Level II criminal background screenings.
- B. Employment with the College may be denied to any current employee or external final job candidate if the results of a Level II criminal background screening indicate the candidate is not qualified or is unsuitable for the position for which the applicant is being considered.
- C. Applicants will be notified in advance that a Level II criminal background screening will be conducted for the position sought, and that any offer of employment is subject to completion of the background screening with results acceptable to the College, as related to the position in question and consistent with business necessity. Criminal background screenings shall be required for only the final candidate for the position, and not the entire pool of candidates. The final candidate will be required to consent in writing to such a background screening prior to the finalization of the employment decision. Failure to consent to the background screening will disqualify the final candidate from further consideration. A final candidate who fails to provide the necessary information or who provides false or misleading information may be disqualified from further consideration. Later discovery of false or misleading information may subject the employee to disciplinary action up to and including termination.

- D. The College will exercise its best efforts to maintain confidentiality as authorized and allowed by law and shall ensure that pre-employment screenings are conducted in compliance with applicable laws and regulations. The College will only use information obtained from the reference check and background screening process for the purpose for which it is intended as part of the employment process and information pertaining to criminal records will be kept confidential to the extent feasible. Information discovered through the background screening process will be used solely for the purpose of evaluating a finalist's suitability for employment. It will not be used to discriminate against a finalist on the basis of race, color, ethnicity, religion, gender, pregnancy, age, marital status, national origin, genetic information or disability status.

III. Procedure

- A. Each internal and external job applicant who is recommended as a final candidate to fill an open position at the College shall be required to consent to a criminal background screening and to timely provide requested information, documentation, and complete forms as required by the Human Resources Department. Any offer made prior to successful completion of a background screening shall be conditional and contingent upon successful completion of a background screening.
- B. Upon receipt of written consent from a final candidate for employment who is recommended to fill an open position at the College, the Director of Human Resources shall obtain a Level II background screening for the final candidate.
- C. Upon receipt of the completed background screening report, the College will make a hiring decision based upon the information gathered. If negative or incomplete information is obtained through the background screening process, the College will determine whether the criminal conduct is job-related and warrants a decision not to hire, consistent with business necessity, in accordance with this procedure. In making this determination, the College will make an individualized assessment of the particular candidate and the job in question and consider, among other relevant information:
1. For criminal convictions and pleas, the nature and seriousness of the offense(s); the amount of time that has elapsed since the offense(s) and completion or lawful release from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense(s); the number and type of offense(s); the accuracy and completeness of the information provided by the finalist during the selection process; the nature of the position in question and the relationship of the offense to the responsibilities of the position; and whether hiring, transferring or promoting the finalist would pose an unacceptable level of risk to the College.
 2. For all other negative or incomplete information, the nature and seriousness of the activities or data obtained, the amount of time that has elapsed since the activities or data, whether the information is related to the responsibilities of the position, and the accuracy and completeness of the information provided by the finalist during the application process. An arrest does not establish that criminal conduct has occurred, but the College may make an employment decision based upon the conduct underlying the arrest if the conduct makes the individual unfit for the position in question.

3. Notwithstanding the foregoing, persons who have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been expunged for, any offense(s) enumerated in Section 435.04, Florida Statutes, shall not be eligible for employment at the College, unless said person successfully appeals pursuant to Section E., below.
- D. In instances where negative or incomplete information is obtained, the Director of Human Resources will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired in accordance with Paragraph C, above. If any applicant is found to have falsified any information regarding conviction history, the applicant will not be considered for employment. If an employee seeking a transfer or promotion to a position requiring a criminal history record check is found to have falsified any information regarding conviction history, the employee may be immediately discharged. The Director of Human Resources will notify the hiring manager regarding his/her determination.
- E. If the Director of Human Resources determines that adverse action is warranted based in whole or in part on the negative results or the incomplete information of a criminal background screening, the finalist will receive a Pre-Adverse Action Notice, instructions on how to obtain a copy of the criminal background screening report, and a document summarizing his/her rights to appeal. The Pre-Adverse Action Notice shall inform the applicant or employee that he or she was rejected because of information in the background screening report and that he or she has a right to dispute the accuracy or completeness of the report. Finalists will be permitted to appeal the decision of the Director of Human Resources and request an exemption from disqualification per Florida Statute 435.07 by providing responsive information of clear and convincing evidence of rehabilitation; the time period that has elapsed since the incident; documents showing the completion or lawful release from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense(s); documents showing the final result of incomplete dispositions of charges; and additional explanations, including, but not limited to, the circumstances surrounding the criminal incident for which an exemption is sought, the nature of the harm caused to the victim, any criminal history since the incident, or any other evidence or circumstances indicating that the appellant will not present a danger if employment or continued employment is allowed. The finalist will be given five (5) business days to provide this written appeal request and supporting information to the Office of the Vice President, Administration & Finance, so as not to unreasonably delay the recruitment process for the position. Extensions may be provided to the finalist at the sole discretion of the College.
- F. If the finalist believes the results of the criminal background screening are inaccurate, he or she shall have three (3) business days to file a written appeal to the Vice President, Administration & Finance stating ALL of the alleged inaccuracies contained within the background screening report. The finalist will then have an additional seven (7) business days to resolve ALL of the alleged inaccuracies that are contained in the criminal background screening with the Florida Department of Law Enforcement (FDLE) Criminal Justice Information Program and notify the Vice President, Administration & Finance that ALL of the alleged inaccuracies have been corrected. The corrected criminal

background screening report will be reviewed in accordance with this procedure. Extensions may be provided to the finalist at the sole discretion of the College.

- G. So as not to unreasonably delay the recruitment process for the position, the total time period granted to the finalist for resolution of ALL of the alleged inaccuracies in the background screening report and submission of the written appeal for exemption from disqualification and supporting documentation shall not exceed fifteen (15) business days unless extensions were provided to the finalist at the sole discretion of the College.
- H. Consideration of an appeal shall be conducted by a panel composed of the President; Vice President of Administration and Finance; the Vice President of Institutional Effectiveness; and the senior management staff member with authority over the department in which the applicant is seeking employment. If the applicant is seeking employment in a position under the direct or indirect supervision of the Vice President of Administration and Finance or the Vice President of Institutional Effectiveness, then the Vice President of Student Affairs shall act as the fourth member of the appeals panel. The Director of Human Resources may be present in a non-voting, advisory capacity. The appeals panel shall conduct an individualized assessment pursuant to the criteria included in this procedure, which shall include the review of documents and information provided by the applicant in connection with his/her appeal. Each member of the appeals panel shall have one vote in the determination of whether adverse action shall be taken. The majority vote of the appeals panel shall act as the final determination of whether adverse action is taken. In case of a tie-vote, the President shall act as the final determiner of whether adverse action is taken.
- I. If adverse action is taken against the finalist in whole or in part based upon the results of a Level II criminal background screening, the finalist will receive an Adverse Action Notice, indicating that his or her application for employment will no longer be considered, consistent with business necessity.

IV. Other Employment Background Screenings

This procedure is only intended to govern criminal background screenings. The College may institute additional types of employment background screenings at any time. In the event that any new requirement includes current employees, the impacted employees will be provided with proper notification and a waiver agreement authorizing the College to obtain the information in accordance with applicable laws and policies.

Vice President, Administration & Finance		Date:
Approved by President		Date: