



University Policies and Procedures

07-01.04 - BACKGROUND INVESTIGATIONS

- I. Policy Statement:** A background investigation is conducted: to promote a safe work environment; to protect students, employees, property, information, and the public; to make prudent employment decisions based on comprehensive information; and, to comply with Maryland Law. This policy establishes procedures for conducting Background Investigations as part of the employment process consistent with applicable law and regulations, including Maryland Code, Family Law Article §5-560.
- II. Definitions:**
- A. Background Investigations includes employment reference checks, educational credential and professional licensure/certification checks, criminal history checks, motor vehicle record (MVR) checks, physical screening, drug and alcohol screening, and credit history checks.
 - B. Criminal History Record Information has the same meaning as defined in Md. Code, Criminal Procedure Article, §10-201.
 - C. Criminal Record shall have the same meaning as “Reportable Event” defined by Md. Code, Criminal Procedure Article §10-215. Criminal Record does not include a juvenile record.
 - D. Candidate means an applicant for employment who meets all position requirements and has been selected for employment, or prospective Volunteer.
 - E. Covered Person means all staff and faculty, certain Volunteers and certain student employees who are engaged in highly sensitive activities (e.g., those conducting financial transactions, working with vulnerable populations, or otherwise specified in this policy). In the relatively rare case in which relevant facts justify an exception, the Office of Human Resources (OHR) may waive the requirement for a criminal history background check on a specific Covered Person.
 - F. Volunteer means a person who performs a service that directly benefits Towson University (“University”), voluntarily or for academic credit, and without pay. For purposes of this policy, Volunteers will exclude assignments such as Board of Directors, Board of Visitors, Alumni Association Board, and Advisory Boards, but will include those performing office or clerical work; coaching; working with minors, the elderly, or the disabled; and other Volunteer assignments. If there is a question regarding applicability of this policy for a Volunteer assignment, the OHR shall be consulted in advance of the assignment beginning.

III. Responsible Executive and Office:

Responsible Executive: Associate Vice President of Human Resources

Responsible Office: Office of Human Resources

IV. Entities Affected by this Policy: All Covered Persons and Candidates. Student employees are also addressed under “Self-Disclosure.”

V. Procedures:

The OHR Record Retention Schedule sets forth the retention timelines for all Background Investigations.

A. Employment Reference Checks

1. Reference checks shall be conducted on all Candidates selected for hire.

a. Staff Procedures

i. Prior to the extension of an offer, the hiring department shall contact at least two employment references. It is preferred that either the current employer and one former supervisor or two previous supervisors be contacted.

ii. References may be contacted by telephone or in writing. It is important for the hiring department to confirm that Candidates have consented to having their current employers contacted. Candidates who do not consent are not disqualified for consideration.

iii. Hiring managers shall submit recommended reference questions to the OHR for approval in advance of conducting reference checks.

b. Faculty Procedures

i. Reference checks are completed by the search committee prior to the selection of the interview pool.

B. Educational Credentials and Licensure/Certification Checks

1. The OHR must verify staff Candidate educational credentials and licenses/certifications prior to the start date.

2. The hiring department must verify faculty Candidate educational credentials and licenses/certifications prior to the start date.

C. Criminal History Checks

1. Criminal history checks are required for all Covered Persons. The OHR shall provide or coordinate the Criminal Background Investigation, with the exception of sworn police officers, police aides, and police communications operators, which are coordinated through University Police and made in compliance with the Maryland Police and Correctional Training Commission requirements with regard to criminal history and employment eligibility. However, the University will not inquire into the criminal background of any Candidate until after providing the Candidate an opportunity for an interview.
2. The results of a full (State, FBI, and Adam Walsh) Criminal Background Investigation must be received for a Covered Person prior to the start date. These individuals shall be required to provide signed consent for the Criminal Background Investigation. An individual declining to provide the required signed consent shall no longer be considered for the position or Volunteer assignment.
3. If a Covered Person is physically unable to provide fingerprints prior to the start date, the Department must contact the OHR a minimum of five business days in advance of the start date.
4. Criminal History Record Information will be used only for determining the Candidate's eligibility for employment or volunteering. A copy of the Criminal Background Investigation shall be provided to the Covered Person upon written request.
5. A Criminal Record shall not itself bar a Covered Person from employment or volunteering. In the event a Covered Person has a Criminal Record, the OHR (in consultation with the Office of the General Counsel and/or other offices as necessary) will consider: the nature of the Criminal History Record Information; the relation of such information to the position for which the Covered Person is being hired or is volunteering; the time since the event(s) referenced in the Criminal History Record Information occurred; the Covered Person's conduct, employment history, and/or rehabilitation efforts; and any other factors relevant to assessing the job-relatedness of the Criminal Record History Information.
6. Arrest Records. The University may not deny employment to a Candidate 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 Candidate's fitness to perform the duties of the position.

7. Nondiscrimination. The use of Background Investigations in 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 practices.
 - a. Even a neutral policy or practice regarding Background Investigations that has the potential to have a disparate impact on a class of individuals must be:
 - i. related to specific job duties, and
 - ii. consistent with business necessity.
 - b. No Candidate or Covered Person may be excluded from employment based upon generalized University policies or practices regarding the use of Background Investigations without an individual assessment that includes the factors described in this section.
8. Commercial Background Checks. If the University denies employment based on Background Investigation information provided by a commercial vendor that qualifies as a Consumer Reporting Agency (CRA) under the federal Fair Credit Reporting Act, the University shall:
 - a. notify the Candidate in writing; and
 - b. provide the Candidate with a copy of the FCRA's report and a summary of the individual's FCRA rights.
9. If a Covered Person is found ineligible for employment or volunteering based on Criminal History Record Information, the OHR shall:
 - a. provide the Covered Person a copy of the Criminal Background Investigation report; and
 - b. notify the Covered Person that he/she may challenge the record check results, if desired.

Those challenging results must notify the OHR of their intent to challenge the results when initially notified by the OHR that they are ineligible for employment. If a Covered Person challenges the results, he/she must provide the OHR in writing (electronic communication is acceptable) the reasons why the Criminal History Record Information should not render the Covered Person ineligible for employment or volunteering within five business days following notification by the OHR of ineligibility. The OHR will review the information submitted with appropriate University administrators and notify the Covered Person of the the final decision.

10. A Criminal Background Investigation is not transferable between agencies. The University may require re-investigation if there has been a break in service.

11. The Criminal Background Investigation results shall be maintained in the strictest confidence in a separate and secure file that may include an online vendor database.

D. Self-Disclosure of Criminal Records

1. All Covered Persons and student employees must disclose a Criminal Record to the OHR within five days of the entry of the Criminal Record.
2. Disclosures and failure to disclose pursuant to this policy may subject the employee to discipline, including termination. Employees convicted of drug and alcohol related offenses are subject to the discipline required by Executive Order 01.01.1991.16.

E. Motor Vehicle (MVR) Record Checks

1. Select positions within the University require driving and/or operation responsibilities of University vehicles. These positions are subject to MVR checks. Final offers of employment are extended after a Candidate successfully completes the MVR screening.
2. Candidates for positions requiring a Commercial Driver's License (CDL) are subject to the federal and state laws governing the requirements for these licenses, as well as University requirements.

F. Physical Screening

1. Select positions within the University have been identified as requiring a medical physical as a condition of employment. In these instances, it has been determined that physical condition is paramount to performing the responsibilities and duties of these positions. Final offers of employment are extended after Candidates successfully complete the employment physical screening. A listing of current University positions that require employment physicals is maintained by the OHR.

G. Drug and Alcohol Screening

1. Select positions within the University have been identified as requiring drug and alcohol testing as a condition of employment. Functions that require a CDL fall under the Omnibus Transportation Employee Testing Act of 1991 and the Federal Highway Administration (FHWA) Controlled Substance and Alcohol Use and Testing Regulations of 1994. The law requires Candidates to undergo and pass employment drug tests if the position requires a CDL. Final offers of employment are extended after a Candidate successfully completes the employment drug and alcohol

testing. A listing of current University positions that require employment drug and alcohol testing is maintained by the OHR.

H. Credit History Checks

1. Select positions within the University may be identified as requiring credit history checks as a condition of employment. Information disclosed in a credit history check shall not itself bar a Covered Person from employment or volunteering. The University will consider the relation of information to the position for which the Covered Person is being hired (or is volunteering), the time since the event(s) referenced occurred, hardships, and disputes with creditors. Credit history checks will be conducted in accordance with the guidelines under the Fair Credit Reporting Act (FCRA). A listing of current University positions that require credit history checks is maintained by OHR.

Related Policies:

USM Policy on Criminal Background Checks for Faculty and Staff Employees (VII-1.15)
TU Policy on Recruitment, Selection, and Employment (07-01.01)

Replaces Policy:

TU Policy on Employee Self-Disclosure of Criminal Records (07-01.03)

Approval Date: 08/23/2016

Effective Date: 10/20/2016

Approved by: President's Council 08/23/2016