

**Policy 1321
Criminal History Investigation**

Date of Current Revision: November, 2008
Responsible Officer: Director of Human Resources
Secondary Officer: Director of Public Safety

1. PURPOSE

This policy is intended to protect the university's interests and the well being of its students, staff, faculty, and the public. This policy establishes parameters for criminal history checks on individuals who are offered employment at the university. Convictions disclosed or discovered in the employment process may influence the selection of the applicant where the conviction is job-related.

2. AUTHORITY

The Board of Visitors has the authority to enact personnel policies for all university employees. Where the board has not exercised this authority, it is delegated to the president.

3. DEFINITIONS

Conviction

The result of a trial or legal proceeding that ends in judgment or sentence that the person is guilty of a criminal violation.

Crime

The breach of a legal duty, punishable by a penal statute, whether federal, state, or local.

Criminal Records Check

A review of the potential employee's or employee's record of criminal convictions and traffic violations.

4. APPLICABILITY

This policy applies to all university employees unless otherwise noted.

5. POLICY

5.1 Criminal Records Checks

All newly hired or rehired (any individual whose rehire date exceeds one year from the termination date) full-time and part-time employees will undergo a criminal history record check. The provisions of this policy also apply to temporary wage positions that are exempted from the normal recruitment process.

5.2 Falsification of Information

The determination of falsified criminal history information on the application or in the hiring process will normally result in denial or forfeiture of university employment.

5.3 Individuals Identified as Potentially Having Job-Related Criminal Histories

A criminal history check may also be conducted for individual employees who have disclosed potentially job-related criminal histories after being hired, or who have been reported as potentially having job-related criminal histories by any source after being hired.

5.4 Job Application/Interview

The staff application for employment requires an applicant to describe any convictions for violation(s) of law, including moving traffic violations. While the faculty application does not include a disclosure statement, both faculty and staff application forms include a statement certified by the applicant as to the truthfulness of the report.

It is acceptable and appropriate to inquire about convictions, but not arrests, during the interview process. Hiring officials should review the conviction disclosure statements on the staff employment applications of interviewed candidates. Hiring officials should inquire about any reported convictions during the interview. Any information about reported convictions, as well as any information about falsification of information, should be communicated to the HR Service Center for further investigation and appropriate action.

Individuals who do not disclose all required convictions on the application will normally be denied employment for falsification of the application. Convictions disclosed on the application or during the employment process will be considered in the selection decision if they have been determined to be related to the job.

5.5 Additional Background Investigations

The university reserves the right to conduct criminal background investigations when an employee is charged with any crime that reflects on his/her suitability for continued employment, during the course of an administrative investigation, when the employee is transferred or hired into a new position, or when circumstances are identified that warrant further investigation.

6. PROCEDURES

6.1 Communication of Policy

The provisions of the criminal history check policy will be communicated to applicants and employees using the following methods:

- Application materials provided to all applicants
- Departmental employment interviews
- Departmental employment letters of offer
- Classified employee welcome letters

In addition, members of the HR Service Center will be available to discuss the provisions and procedures of the policy with supervisors, employees and applicants.

6.2 Initiating the Criminal History Check

The selected candidate must complete a release form as soon as an offer of employment is made. The HR Service Center will contact the department with the results if the investigation reveals a job-related criminal history record.

The university reserves the right to conduct checks on the widest scope possible. Normally, criminal history investigations will include county checks for all counties in which an employee has lived over the past 7 years. The university will also review sexual offender registry(ies) as well as other appropriate sources of background information.

Any information related to criminal history will be maintained in the strictest confidence possible. Only essential personnel involved in the hiring process (including the administrative line up to the

President), the individuals involved in the assessment of job-relatedness, and the police and audit departments should be informed of information on criminal background of an individual employee or applicant on a need-to-know basis.

6.3 Determination of Job-related Convictions

The HR Service Center will initially review the criminal history records to determine job-relatedness. If the individual has convictions that are job-related, the university will normally deny employment. The determination to deny employment will be made by the hiring authority, in consultation with Human Resources, and the administrative line, up to and including the President, in accordance with the policy. A decision to hire an applicant with a job-related conviction requires the approval of the appropriate division head.

In making the determination of job-relatedness, the hiring department will consider how recently the conviction occurred; the frequency and severity of the crime(s); and the age of the individual at the time the crime was committed. The safety and security of the campus and the members of the JMU community will be the university's foremost consideration.

6.4 Preliminary Offers

Departments may make an offer of employment to the selected candidate; however, the offer is contingent on the results of the criminal history check. The HR Service Center will contact the department with the results of the criminal history check as soon as possible if a job-related record is discovered. In some cases, job offers may be delayed until the results of the checks are received.

If the employee commences work before the results of the criminal history check have been received, the offer letter will note that the continuation of employment is contingent on the results of the check.

6.5 References

JMU Policy 1320 provides more information regarding the hiring of classified and wage employees, including the university's policy on reference checks. JMU Policy 2101 provides more detailed information regarding the hiring of faculty.

7. RESPONSIBILITIES

Hiring supervisors are responsible for adherence to this policy, including communicating it clearly to job candidates.

The HR Service Center is responsible for the management of this policy, including overseeing the background check process and reporting results.

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination.

9. EXCLUSIONS

Criminal history checks will not be conducted by the Office of Human Resources on:

- Any individual whose primary role with the university is a student
- Any individual who is hired to work five days or less
- Student employees

- Graduate assistants
- Affiliates

10. INTERPRETATION

Authority to interpret this policy rests with the president but is delegated to the Director of Human Resources.

Previous Version: September, 2007
Approved by the President: July, 2004

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