

CRIMINAL BACKGROUND CHECKS

PURPOSE

It is the purpose of this procedure to describe the positions requiring such background checks, the individuals responsible for initiating and conducting such checks, and the procedure by which background checks will be conducted. Oregon statutes, Oregon administrative rules, and College procedures require criminal background checks for certain faculty, classified, management, student and volunteer positions. Criminal background checks will be conducted in compliance with state and federal guidelines.

NARRATIVE

Oregon statutes, Oregon administrative rules, and College procedures require criminal background checks for certain faculty, classified, management, student and volunteer positions.

Criminal background checks will be conducted in compliance with state and federal guidelines. The Chief Human Resources Officer or designee is responsible for initiating the background check.

COLLEGE PROCEDURES

Every background check will be conducted using the following procedure:

1. Notice shall be provided to the applicant before and after the check. Notice will include information that the individual must provide to facilitate the background check;
2. Applicant's written permission shall be received before conducting the background check;
3. The applicant shall be provided a copy of the report and the opportunity to appeal an adverse employment decision that is based on the criminal background report.

All information obtained in the course of the criminal background check will be kept confidential. Background checks involving current Southwestern Oregon Community College employees will be initiated and/or updated only when required by state or federal statute and only with the explicit authorization of the Chief Human Resources Officer or designee.

CRITERIA FOR MANDATED CRIMINAL HISTORY BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES AND FOR NEW ASSIGNMENTS

Consistent with the required background checks mandated by state and federal laws, the College may identify the need to conduct criminal background checks for positions, assignments or job classifications, if any of the following conditions are true:

1. A person in the position would have direct, unsupervised contact with students under the age of 18 or,
2. A person in the position would have direct, unsupervised contact with developmentally disabled adults or,
3. A person would have access to personally identifiable information of Southwestern students and/or employees, including but not limited to Social Security Numbers, dates of birth, driver's license numbers, medical information, personal financial information, or criminal background information or the background check is required because of an investigation, or
4. A person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems.

Designation of a position or assignment for background checking requires the approval of the Chief Human Resources officer or designee.

POTENTIALLY DISQUALIFYING CRIMES

Crimes Relevant to a Fitness for Employment Determination:

1. All felonies;
2. All Class A misdemeanors;
3. Any United States Military or international crime that is equivalent to any crime listed in this section;
4. Any crime of attempt, solicitation, or conspiracy to commit a crime listed in this section (1) pursuant to ORS 161.405, 131.435, or 161.450;
5. Any crime based on criminal liability for conduct of another pursuant to ORS 161.555, when the underlying crime is listed in this subsection (1);
6. Any crime which, if convicted, would require the individual to register as a sex offender.

Evaluation Based on Oregon or Federal Laws: In consultation with College legal counsel, the Chief Human Resources Officer or designee shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime.

EXPUNGED JUVENILE RECORD

Under no circumstances shall a subject individual be denied opportunities under these rules because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 through 419A.262.

FITNESS DETERMINATION

In consultation with College legal counsel, the Chief Human Resources Officer or designee must use these criteria to determine whether the subject individual is fit to hold a position, provide a service, or be employed based upon the criminal records check obtained, or on any false statement made regarding criminal history. In making the fitness determination, the Chief Human Resources Officer or designee must consider:

1. The nature of the crime;
2. The facts that support the conviction or pending indictment or that indicate the making of the false statement;
3. The relevancy, if any, of the crime or the false statement to Oregon or federal laws and the specific requirements of the subject individual's proposed position, services, or employment; and
4. Intervening circumstances relevant to the responsibilities and circumstances of the position, services, or employment. Intervening circumstances include but are not limited to:
 - a. The passage of time since the commission of the crime;
 - b. The age of the subject individual at the time of the crime;
 - c. The likelihood of a repetition of offenses or of the commission of another crime;
 - d. The subsequent commission of another relevant crime; whether the conviction was set aside and the legal effect of setting aside the conviction; and
 - e. A recommendation of an employer.

PROCESS FOR CONDUCTING BACKGROUND CHECKS

If a criminal background check is required, it will be conducted by an authorized agency under the direction of the Chief Human Resources Officer or designee after a conditional offer of employment or a conditional offer for a new assignment is made. The Human Resources Department will pay the cost of the background check. Generally, the applicant may not begin work or be unconditionally hired before the results of the background check are known and meet the above-stated criteria.

The opportunity to become employed will terminate immediately for all prospective employees considered ineligible according to the standards set forth above.

Individuals who refuse to consent to the criminal background check when such background checks are required by state or federal laws or mandated by state or federal regulations shall not be considered eligible for employment in the designated position.

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