

Southwestern Oregon Community College

AP 7126 Applicant Background Checks

Purpose

It is the purpose of this procedure to describe the positions requiring background checks and criminal records checks which may include fingerprinting, 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 background checks, which may include fingerprinting for certain faculty, classified, management, temporary, student and volunteer positions. Background checks, criminal records checks, and fingerprinting will be conducted in compliance with state and federal guidelines. The Chief Human Resources Officer or designee is responsible for initiating the background check.

All information obtained in the course of background checks 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 Background Checks, Criminal Records Checks and/or Fingerprinting

Consistent with state and federal laws, the College may identify the need to conduct background checks, criminal records checks and/or fingerprinting for employees of the College, volunteers or interns if a promotion, change in position, job assignment or job classification, or a change in program services or requirements results in any of the following conditions being 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);

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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 shall 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 and/or fingerprinting obtained, or on any false statement made regarding criminal history and/or fingerprinting. In making the fitness determination, the following will be considered:

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 background check, criminal records check and/or fingerprinting 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 College will pay the cost of the background check, criminal records check and/or fingerprinting. All hires are conditional pending the results of the background check and meeting the above stated criteria. New hires generally may not begin work until the background check is complete.

Those positions that work directly with and have unsupervised contact with students under the age of 18 or developmentally disabled adults will have a background and/or criminal records check every two years while actively employed or volunteering.

The background check, criminal records check and/or fingerprinting process will include:

1. A notice to the job applicant or volunteer advising them of the requirement to complete a background check, criminal records check and/or fingerprinting;

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2. Obtaining the job applicants written permission to conduct the background check, criminal records check and/or fingerprinting;
3. The opportunity for a job applicant to appeal an adverse employment decision that is made based on the results of the background check, criminal records check and/or fingerprinting report.

The opportunity to become employed, promoted, or moved to a different job assignment will terminate immediately for all prospective employees considered ineligible according to the standards set forth in this policy.

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.

Background Checks may also include:

1. Personal and professional reference checks;
2. Verification of prior employment verification – including the dates of employment, positions held, information regarding performance ratings, reason for departure and eligibility for rehire;
3. Educational degree verification
 - a. When required, new employees, within 30 days of hire, must request official transcripts and have them mailed directly from the issuing institution to Southwestern Oregon Community College human resources.
 - (1) If the degree was earned from an institution outside of the United States, an official international degree evaluation will be accepted.
 - b. Credential Verification
 - (1) When required, new employees, within 30 days of hire, must provide official copies of professional certifications.
 - c. Motor Vehicle Records
 - (1) Required only when driving is an essential part of the position and will include notice to the applicant and written permission before such check.

Added as new Administrative Procedure: September 15, 2010

Reviewed: March 11, 2013 (Formerly Admin Policy 6.2.009)

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