

Title: Employee Background Checks	
Effective Date: October 1, 2011	Responsible Office: Provost
Revision Date: First Version*	Page: 1 of 4

I. SCOPE

This policy applies to the College of William & Mary, including the Virginia Institute of Marine Science (the “university”). It applies to prospective employees for all university positions, except for those exclusions made herein.

Contract workers or vendors performing work or providing services for the university are not covered by this policy, but may be required under university contracts to undergo criminal background checks.

State or federal laws or regulations or professional licensing standards may require background checks or other forms of screening or testing for certain university positions. Such checks, screening, or testing, are outside the scope of this policy.

II. PURPOSE

The purpose of this policy is to help provide a safe and secure working, living, and learning environment for the campus community and protect university assets and interests by establishing what types of background checks are performed as a condition for university employment.

III. DEFINITIONS

Final candidate means a current, former or prospective employee recommended (in accordance with university recruitment procedures) for hire, transfer or promotion and to whom the university intends to extend an offer of employment or has extended a conditional offer.

Sensitive positions are a subset of university positions for which a particular type of criminal background check is required under state law. Sensitive positions are defined by the Code of Virginia (§ 2.2-1201.1) as those positions designated by the university as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures.

* This Policy replaces a Criminal History Checks Policy.

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IV. POLICY

It is the policy of the William & Mary to hire individuals only after conducting criminal history and other background checks and considering whether any past conduct, if repeated at William & Mary, could substantially adversely affect an important interest of the university or members of the campus community.

A. Candidate Disclosure and Consent. All candidates may be required to

- provide the information and consent needed to perform a background check; and
- disclose requested criminal, job history, and other information, including past criminal convictions and any prior instance of being dismissed for cause from a job.

Candidates may also provide explanatory documentation or information. Criminal and other information disclosed in this process will be reviewed and considered only for the final candidate(s) for a position.

Willful or knowing (i) failure to disclose or (ii) disclosure of false or misleading information may result in denial or forfeiture of university employment.

B. Background Checks.

1. Type of Checks Conducted. The baseline background check conducted includes a criminal history check and employment history review, including reference checks. Depending on the nature of the position for which the candidate is being considered, additional checks may be conducted, such as:

- verification of educational degrees, academic transcripts, licenses and certifications;
- credit report;
- driving record; or
- drug screening.

The university may conduct checks and reviews for any candidate for a position, but criminal history will be reviewed and considered only for the final candidate(s) for a position.

For sensitive positions, the university will obtain a fingerprint-based criminal history report for the final candidate from the Federal Bureau of Investigation through the Department of State Police, in accordance with Va. Code § 2.2-1201.1.

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2. Consideration of Information Obtained. Convictions and other information disclosed by candidates or revealed through background checks will influence the hiring decision only if considered by the university to be relevant to the duties of the position and the university's responsibilities to the public and the campus community.

For convictions and other past conduct deemed potentially relevant, the following will be considered:

- the nature and severity of the offense or conduct,
- the nature of the position, and
- a candidate's explanation of a past event and other contextual information, including the candidate's age at the time the event or conduct occurred and the time elapsed since.

If the university denies employment based on criminal background check information (other than information solely disclosed by the candidate) or any other information provided by a consumer reporting agency, the university will notify the candidate in accordance with the Fair Credit Reporting Act.

C. Confidentiality and Reporting. Information will be collected and handled confidentially by designated university officers. Information will be retained only as required by law, and will not become part of any employee's personnel file.

The Provost will maintain data, stripped of any identifying information, regarding employment decisions under this Policy, and report on such data annually.

V. EXCLUSIONS

A. Promotions.

1. Current Employees. Any employee of the university as of the effective date of this policy will not be required to undergo background checks as a condition for continued employment or promotion or transfer, unless the promotion or transfer is to a sensitive position and the employee has not previously undergone a fingerprint-based background check at the university.

2. Employees Hired Subject to Background Checks. Individuals hired after the effective date of this policy and subsequently promoted or transferred will not be required to undergo an additional criminal background check, unless the promotion or transfer is to a sensitive position and the employee has not previously undergone a fingerprint-based background check at the university.

These exceptions do not preclude the university from verifying credentials or licensures or performing other background checks relevant to the new position, in the case of an employee being promoted or transferred.

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B. Certain Restricted Positions. The Provost may exempt certain categories of restricted positions, such as adjunct faculty and student employees, from this policy. “Restricted positions” are positions that have a defined term, rather than permanent or continuing appointments.

VI. AUTHORITY AND IMPLEMENTATION

This policy was approved by the Board of Visitors. It replaces the Criminal History Checks Policy formerly applicable to classified, operational, hourly and temporary positions.

The Provost is authorized to promulgate procedures to implement this policy.