



## Ohio Administrative Code

### Rule 3344-60-01 Employee background screening policy.

Effective: January 21, 2018

---

#### (A) Purpose

In an effort to protect the campus community and its assets, the university seeks to ensure that individuals hired, promoted, or otherwise placed into vacant positions, via the university's hiring process, have no criminal conviction history relevant to their employment or discrepancies in employment history. This rule establishes procedures for carrying out identity, employment verification, education/credentials, professional licensure, motor vehicle record and criminal background check, (including national sexual offender registry), for prospective candidates.

#### (B) Definitions

- (1) "Covered positions" - all faculty and staff positions, particularly professional staff and classified staff. Certain positions at CSU (i.e., law enforcement), shall be subject to the appropriate background checks, required by law and/or collective bargaining agreement.
- (2) "Candidates" - prospective candidates who are under final consideration for a position, including individuals not currently employed by CSU.
- (3) "Motor vehicle record check" - see Cleveland state university driving and motor vehicle policy.
- (4) "Criminal background check" - the process of reviewing criminal history information of a final candidate received from a third-party vendor or law enforcement agency.
- (5) "Identity verification" - the process of verifying the identification information of a final candidate received from a third-party vendor or law enforcement agency.
- (6) "Employment verification" - the process of verifying the employment information of a final candidate received from a third-party vendor or law enforcement agency.



- (7) "Education/credentials verification" - the process of verifying from a third-party vendor the attestation of education, qualification, competence, or authority issued to an individual by a third party with a relevant or de facto authority or assumed competence to do so.
- (8) "Professional licensure" - the process of verifying from a third-party vendor the attestation of professional licensure issued to an individual by a third party with a relevant or de facto authority or assumed competence to do so.
- (9) Conviction - all prior criminal convictions and pleas that are acknowledgements of criminal responsibility including a verdict, a guilty plea or nolo contendere ("no contest") plea. This also includes any convictions or pleas that are acknowledgments of criminal responsibility subject to the jurisdiction of a military court.
- (10) Criminal history information - a written, an electronic, or a printed electronic record of information received from a law enforcement agency or third party vendor in the business of obtaining and reporting criminal conviction information. Criminal history information does not include an individual's conviction record(s) that has been sealed by court order or any arrests not resulting in a criminal conviction. Criminal conviction information includes in-state, out-of-state and international (where applicable) criminal conviction information, including misdemeanor and felony convictions.
- (11) "Hiring process" - the competitive process used by the university to review or screen and select candidates or applicants for the purpose of filling an approved vacant position.
- (12) Promotion - the advancement of an employee's rank or position in the university's organizational hierarchy, by means of the university's competitive hiring process. For the purposes of this rule, "promotion" shall exclude faculty tenure appointments, and the advancement in rank for staff or faculty through appointment or title change. However, "promotion" shall include administrative faculty hires into approved vacancies, by means of the university's competitive hiring process.

(C) Scope



(1) A background check shall be completed for external and internal candidates under final consideration for a position.

(2) A background check shall be completed for an internal candidate(s), i.e. a current university employee, who is under final consideration for hiring into a position that shall result in promotion, lateral move or demotion, via the university's hiring process.

(D) Details

(1) The university shall seek information on all prior criminal convictions nationwide based on information provided through a residency check. Prior arrests or detention orders that did not result in criminal convictions or pleas, or expunged, or sealed convictions, shall not be considered.

(2) Criminal conviction information shall be used solely for the purpose of evaluating candidates (both external and internal) under final consideration for employment in positions. The information shall not be used to discriminate on the basis of race, color, religion, national origin, sex, age, sexual orientation, handicap or disability, genetic information, disabled veteran, Vietnam era veteran or other protected veteran status.

(3) Criminal conviction information shall not be made a part of an applicant's file, or the employee's personnel file.

(4) The job description for covered positions shall list satisfactory completion of a background check as a minimum qualification requirement. Advertisements and position postings shall list a position as subject to a background check.

(5) Human resources shall utilize a third-party vendor to conduct the background check and the process shall comply with the applicable requirements of the Fair Credit Reporting Act ("F.C.R.A.")

(6) Human resources shall be responsible for developing procedures for the administration of the background check process.

(7) Human resources shall be responsible for coordinating the receipt of background disclosure and



authorization forms from the final candidate(s).

(8) In order to be considered for an appointment, each selected candidate shall provide information about the candidate's criminal conviction record using the prescribed form. A candidate who refuses to consent to a required background investigation, refuses to provide information necessary to conduct the background investigation, or omits, conceals and/or provides false or misleading information in regard to the background investigation shall be determined ineligible for placement into a position. If the candidate is a current employee, omitting, concealing and/or providing false or misleading information in regard to the background investigation shall subject the employee to appropriate administrative action up to and including termination of employment. A current employee who refuses to consent to a required background investigation or refuses to provide information necessary to conduct the background investigation shall be determined ineligible for placement into a position.

(9) Should an adverse decision be made concerning a current employee as a result of information obtained from the background investigation, an administrative review shall be conducted. In considering whether a criminal conviction may prevent the employee from continuing in his or her current position, the university shall utilize criteria related to the position in making a determination to continue or terminate the employment.

(10) A candidate, who has been hired, promoted, or otherwise placed into a position, via the university's hiring process, and is subsequently found to have provided false or misleading information related to the background investigation, shall be subject to appropriate administrative action up to and including termination of employment.

(11) Employment offers/position changes shall not be made until the background check process is completed. Should filling the position be deemed critical to the operations of the university (e.g. instruction or student service positions), a contingent offer may be made, pending the results and review of the background check. Candidates under final consideration shall be given the authorization form, along with a copy of, "A summary of your rights under the Fair Credit Reporting Act". A background report cannot be requested via the third-party vendor without receipt of the authorization form signed by the candidate.



(12) In accordance with federal and state laws, a previous conviction shall not automatically disqualify an individual from consideration for placement into a position. The department of human resources or the provost's office (in cases of faculty positions) shall assess the potential risks and job-relatedness of each conviction in relation to the appointment being considered. The office of general counsel shall also be consulted, as appropriate. In considering whether a criminal conviction may prevent the selected candidate from being appointed, the following factors shall be considered:

(a) The context of the events surrounding the criminal conviction.

(b) The relationship of the criminal conviction to the appointment for which the individual is being considered.

(i) For any position responsible for interacting with customers and/or students, convictions of a violent crime, as defined in division (A)(9)(a) of section 2901.01 of the Revised Code, may be considered grounds for rejecting placement into the position.

(ii) For positions having fiduciary responsibility, or any direct financial control, conviction of a drug-related crime, as defined in division (G) of section 2925.01 of the Revised Code, a crime of theft, as defined in division (K)(1) of section 2913.01 of the Revised Code, or other crime of moral turpitude (e.g., property, gambling, fraud) may be considered grounds for refusing appointment to these positions.

(c) The length of time since the criminal conviction.

(i) Convictions within five years of the date of application, or consideration for a position for the following offenses, may disqualify an individual for consideration for the position appointment:

(a) Felony conviction(s);

(b) Convictions of sexual offenses as defined in Chapter 2907. of the Revised Code; or

(c) Two or more convictions of a drug related offense, as defined in division (G) of section 2925.01 of the Revised Code.



(ii) Note that, in the case of convictions described in paragraph (D)(12)(d)(i)(a), (D)(12)(b) or (D)(12)(c) of this policy, the university's threat assessment team shall be consulted before a decision is made.

(e) The individual's behavior since the criminal conviction.

(f) Any other extenuating circumstances documented by the selected candidate or otherwise known to the university. Some individuals may be required by the law enforcement agency conducting the criminal background check to provide additional information, which is needed by the law enforcement agency for purposes of conducting the background check.

(13) Candidates with pending criminal proceedings shall be evaluated based on the aforementioned factors.

(14) If a candidate is determined ineligible for placement into a position based on the results of the criminal background check, the human resources department, in compliance with the Fair Credit Reporting Act, shall give the candidate written notice. It shall include:

(15) The name, address, and phone number of the reporting agency that supplied the report.

(16) A statement that the reporting agency that supplied the report did not make the decision to take the adverse action and cannot give specific reason for it; and a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within sixty days.

(17) The hiring department in which the position resides shall be responsible for any fees associated with obtaining background information from a third-party vendor.

(18) After the implementation of this policy, current employees, regardless of the position occupied, who are convicted of a crime while employed at CSU are required to report the criminal conviction, in writing or via e-mail, to the assistant vice president of human resources within five work days (Monday through Friday) of the conviction. In addition, the university's appointing authority has the



right to conduct a criminal background check when the appointing authority learns of a university employee's criminal conviction.

(19) All external and internal applicants/employees being hired into positions shall be given the opportunity to sign a release, granting CSU permission to conduct background checks. An employee who refuses to consent to a background investigation, refuses to provide information necessary to conduct the background investigation, omits, conceals and/or provides false or misleading information in regard to the background investigation shall be subject to appropriate administrative action up to and including termination of employment.