



Background Check and Other Consumer Reports Policy

I. Purpose:

The University recognizes a duty to take due diligence steps to avoid hiring applicants for employment or unknowingly retaining employees who could predictably pose unreasonable risks of harm to the campus community. Particular consideration must be given to individuals working with minors in our campus. The establishment of processes for initiating criminal background investigations and other consumer reporting checks, evaluating those results, and doing it in a lawful and responsible way are goals of the policy.

II. Applicability:

- A. New Employees:** All new employees of the University after April 15, 2009 shall be subject to Multi-state Criminal and Child Abuse Registry database searches, Social Security number-to-name verification, current address verification, (1) county criminal search as a condition of employment.
- B. Regular & Temporary Employees:** Effective October 14, 2013, all regular employees who have direct programmatic interaction with minors as an integral part of their duties, or as part of a camp, conference, or other special program, shall be subject to the Act 33 DPW Child Abuse check, Act 34 PA State Police Criminal Record check, and Act 114 FBI criminal history report every three years. The cost of all three clearances will be borne by the university, generally in the form of reimbursement.
- C. Promotions and Reassignments:** When a promotion or reassignment places an employee in a position which has daily programmatic interaction with minors as an integral part of their duties and the employee's prior position did not, the employee will be subject to the provisions of Section II.A. of this policy.
- D. Breaks in Service:** Temporary faculty and non-instructional employees who are employed cyclically and have been employed by the University within the past 12 months shall not be subject to a new multi-state criminal and sex offender database search to teach the second year. If the break in service exceeds 12 months, faculty and staff will be required to obtain a new set of background checks.

- E. Student Employment: Non-work-study student employment is subject to the Background Check and Other Consumer Reports Policy. Work-study students are exempt.
- F. Camp and Conference Employees, Volunteers, Independent Contractors' Employees, and Employees of Affiliated Organizations Having Direct, Direct Programmatic Interaction With Minors: The specific requirements for individuals and organizations in these categories are discussed in Section IV.C. of this policy

III. Definitions:

- A. Criminal Conviction: An adjudicated wrong which violates a state, federal or military statute.
- B. Felony: A crime of a more serious nature, usually punishable by a period of imprisonment exceeding one (1) year.
- C. Misdemeanor: A crime of a less serious nature and considered a petty offense, usually punishable by fine.
- D. Driving Record: State history of driving offenses, including reckless driving, driving under the influence and associated driving privilege revocations.
- E. Direct Programmatic Interaction with Minors: A likelihood of regular contact with a minor under the age of 18 in the form of care, guidance, supervision, or training.
- F. Sex Offender Registries: Various states have established public access registries designed to create a means of notifying the public of the presence of persons in that jurisdiction with felony sex offender convictions.
- G. Fair and Accurate Credit Transactions Act of 2003 (FACTA): An amendment to the FCRA. The Act, among other things, contains provisions to help reduce identity theft and requires secure disposal of consumer information.
- H. Fair Credit Reporting Act (FCRA): A federal law which regulates the collection, dissemination, and use of consumer reports, including criminal background checks.

IV. Policy:

It is a policy of West Chester University to conduct pre-employment criminal background searches for all new employees. Retrenched faculty and furloughed non-instructional employees from other PASSHE universities who are hired preferentially by the University will be treated as new employees for the purposes of this policy. Every third year, follow-up background checks must also be conducted for existing employees whose duties involve direct programmatic interaction with minors. Social Security number and address verifications searches are also required for all new employees.

Employees of the University are required to report any criminal conviction to the Office of Human Resources within 72 hours of the occurrence.

- A. **Review of Criminal Records:** Felony convictions will be evaluated and misdemeanor convictions may be evaluated using the standards below. Mere arrest records will not be used as a basis for disqualifying applicants or employees from employment at the University. Nolo contendere pleas will be treated as admission to a crime.
- B. **Standards for Evaluating Convictions:**
1. **Relevancy:** A conviction must be relevant to the nature of potential risks posed by the position. For example, a fraud conviction would be relevant to an accounting position. Crimes against property, such as theft or receiving stolen property would be relevant for a custodian's position.
 2. **Severity:** Generally, misdemeanor convictions do not rise to a level of seriousness to be considered potential bars from employment, but under certain circumstances or frequency, may be a bar. All felony convictions and certain higher grade misdemeanors should be closely scrutinized in accordance with the guidance set forth in this policy. Generally, minor traffic violations would not be considered grounds for disqualification from employment.
 3. **Recency:** Due consideration should be given to how old the conviction is, as well. For example, a conviction for flag burning in 1968 should not be a bar to employment in 2003.
- C. **Background Investigation Packages (by Constituency):**
1. **Staff Package:** Multi-state Criminal & Sex Offender Registry database searches, Social Security number- to- name verification; current address verification, (1) county criminal search. (Managed by Human Resources, costs borne by the University)
 2. **Non-Professional Staff Package with Valid Driver's License Verification:** Multi-state Criminal and Sex Offender Registry database searches, Social Security number –to- name verification, current address verification, (1) county criminal search, and driver's license non-revocation verification. (Managed by Human Resources, costs borne by the University)
 3. **Managers, Nurses, SCUPA, Coaches (Non-Financial) Package:** Multi-state Criminal & Sex Offender database searches, Social Security number to name verification, current address verification, (1) county criminal search, Education level verification, current/prior employment verification. (Managed by Human Resources, costs borne by the University)
 4. **Public Safety Positions:** Current Statutory requirements are the standard. (Managed by the WCU Public Safety Department, costs borne by the University)
 5. **Manager (Financial) Package:** Multi-state Criminal & Sex Offender

Registry searches, credit report, (1) county criminal, Federal (84 District Criminal search), education level verification, and current/prior address verification. (Managed by Human Resources, costs borne by the University)

6. **Faculty:** Multi-state Criminal & Sex Offender Registry database searches, name-to-number Social Security number verification, (1) county criminal, education level verification (up to 3), and current/prior employment verification. (Managed by Human Resources, costs borne by the University)
7. **Programs Serving Minors:** Act 33 DPW Child Abuse check, Act 34 PA State Police Criminal Record check, and Act 114 FBI criminal history report, including finger printing.
 - a. University employees: will be responsible for submitting their clearances to the Human Resources Office prior to the start of the camp/program and filing the necessary paperwork for reimbursement of the background check fees.
 - b. For volunteers and individuals hired specifically for the camp/program but not otherwise employed by the University, the Camp Director or sponsoring college will provide all related background check copies to the University Payroll Office as verification. The background check process will be managed by the Camp Director or sponsoring college, with costs borne by the applicant as a pre-condition of applying for employment.
 - c. Bargaining unit members, non-represented employees, and students enrolled through the academic year will need to provide clearances every three years. All other camp employees are required to resubmit all three clearances each year.
8. **Volunteers who do not have direct programmatic interaction with minors:** Multi-state Criminal and Child Abuse Registry database searches, Social Security number-to-name verification, current address verification, (1) county criminal search. (Managed by Human Resources, costs borne by the University)
9. **Independent Contractors' Employees and Employees of Affiliated Organizations Having Direct Programmatic Interaction with Minors:** Independent contractors' employees working on campus and having direct programmatic interaction with minors are required to submit the Act 33 DPW Child Abuse check, Act 34 PA State Police Criminal Record check, and Act 114 FBI criminal history report, including finger printing. They must also carry Comprehensive General Liability insurance in such amounts as the University deems sufficient, but no less than \$1,000,000 for each occurrence for bodily injury and \$2,000,000 general aggregate per policy year. If Child Abuse and Molestation coverage is specifically included in the Comprehensive General Liability policy, evidence of this specific inclusion is required. Otherwise, a separate policy or rider shall be required as evidence of said insurance in the amounts listed above. (Verification provided to the University Purchasing Office) Employees of affiliated

organizations with direct, daily programmatic interaction with minors have the same requirements. (Verification by Articulation Agreement)

10. Employees/Members of External Organizations Contracting with WCU

Conference Services: On-site employees/members of external organizations who contract with WCU Conference Services and sponsored programs that have direct programmatic interaction with minors must obtain abuse and molestation insurance and must submit the Act 33 DPW Child Abuse check, Act 34 PA State Police Criminal Record check, and Act 114 FBI criminal history report, including finger printing. They must also carry Comprehensive General Liability insurance in such amounts as the University deems sufficient, but no less than \$1,000,000 for each occurrence for bodily injury and \$2,000,000 general aggregate per policy year. If Child Abuse and Molestation coverage is specifically included in the Comprehensive General Liability policy, evidence of this specific inclusion is required. Otherwise, a separate policy or rider shall be required as evidence of said insurance in the amounts listed above. (Verification by Conference Services)

- D. Job Announcements: WCU Job announcements will contain notice to all applicants of specific pre-employment criminal background and consumer reporting requirements for final candidates for employment.
- E. Offers of Employment: All offers of employment are subject to and contingent upon satisfactory completion of all pre-employment criminal background and consumer reporting checks.
- F. Falsifications: False application or resume information submitted for University consideration or false statements made as part of the screening and interview process may lead to immediate termination of employment, regardless of when the discrepancy is discovered.
- G. Waiting Time Considerations for Completed Criminal and Consumer Reporting Background Checks: Understanding that different jurisdictions require different amounts of lead time, and some also have periodic backlogs of requests from time to time, it is likely that in some cases, offers of employment must be extended prior to criminal background or consumer reporting check results being available to the University. While employment may begin prior to receiving these results if necessitated by operational circumstances, employment will remain contingent until all background checks having been successfully completed. Conditional employees must be advised of this contingency.
- H. Senior Administrative Officers: Subject to approval of the President, search committees for senior administrative officers of the University such as Vice Presidents and Deans, will establish specific pre-employment criminal background and/or consumer reporting requirements prior to undertaking a search for a vacant senior administrative position. University searches deploying executive search services from a vendor remain subject to PASSHE Board of Governors Policy 2009-01: ***Criminal Background Investigations.***
- I. Act 33 and 34: This policy does not replace or amend any specific obligations required by Acts 33 or Act 34 relating to Public Safety Officer, Elementary and Secondary

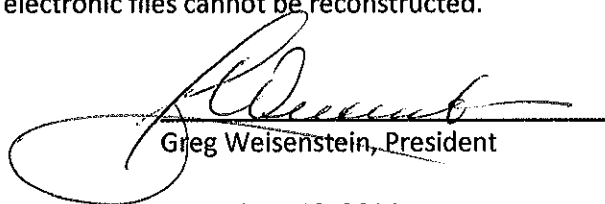
Teaching or Child Care positions.

V. Procedures

- A. Costs: Costs associated with pre-employment criminal background and consumer reporting checks for WCU employees will be covered by the University . All others will be required to cover the cost of background checks themselves.
- B. Vendor Support: A contracted service is in place for the purpose of having a timely, professional, effective means of providing most of these services. The service is coordinated by the Human Resources Office. The University's Public Safety Department is without authority to provide these types of recruitment support services for University searches.
- C. Web-Portal for Camps, Conference Services, and Other Related Activities Subject to Act 33, Act 34 and FBI Clearance Requirements: The Office of Human Resources website will maintain pertinent information and web-portals for applicants whose employment or presence on campus is contingent upon satisfactory completion of background checks via Act 33, Act 34, and FBI Reporting.
- D. Final Candidate Only: Criminal background and consumer reporting checks will be obtained only for the final candidate for employment. If the initial final candidate is not selected and the search moves to the next candidate in a finalist pool, that candidate will then be required to submit to the checks.
- E. Notice of Rights and Authorization (Release) Requirements: Services of this nature are subject to the Fair Credit Reporting Act, and all its procedures must be followed. The Office of Human Resources has responsibility for providing all related notices and obtaining completed authorization forms before a request is made to the vendor for reports. When the Office of Human Resources receives notice from a consumer reporting vendor of a substantial address discrepancy falling under FACTA's *address discrepancy rule*, the Office of Human Resources will compare the vendor-supplied address information with information provided to the University by the applicant for employment. If the discrepancy cannot be resolved by that means the Office of Human Resources will request a copy of the applicant's current state driver's license or other proof of residency from the applicant to verify the address in order for the Office of Human Resources to form a reasonable belief that the consumer report relates to the applicant.
- F. Suitability for Employment: The President has delegated authority to the Provost and the Chief Human Resources Officer for faculty searches, and the Chief Human Resources Officer for all non-instructional searches, to determine if a criminal conviction or other adverse consumer report renders a candidate unsuitable for employment. The Chief Human Resources Officer will review all preliminary determinations of unsuitability with University Legal Counsel prior to implementing such decisions. The Chief Human Resources Officer will inform the Division Vice President in the area where the vacancy exists, when a candidate's criminal conviction has resulted in a determination of suitability or non- suitability for employment in the position. Applicants seeking

information regarding criminal or other consumer reports forming the basis for employment disqualification may receive a copy of the third party consultant's report from the source and have a statutory period to contest information contained on the report. But a search need not be suspended while such an appeal is in progress.

- G. Retention of Pre-Employment Criminal Background and Consumer Reporting**
Document Disposition: Criminal history files are not maintained by the University on-site. The University's background check vendor has responsibility for maintaining all records off-site. Court-ordered access to these files requires the approval of the Chief Human Resources Officer and University Legal Counsel. Vendor disposal of all criminal background and other consumer reports comports with the Federal Trade Commission's final regulations relating to FACTA's *disposal rule*, requiring secure shredding of paper documents, and erasing of electronic files at the same time paper documents are shredded, in a way that the electronic files cannot be reconstructed.



Greg Weisenstein, President

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