

Effective: April 7, 2009

**Human Resources Policy
PRE-EMPLOYMENT INFORMATION
VERIFICATION INCLUDING
CRIMINAL BACKGROUND INVESTIGATION**

Approved: April 7, 2009
President's Cabinet

The purpose of this policy is to ensure that appropriate information about a candidate's education, employment history, and history of criminal convictions is considered prior to finalizing an offer of employment. This policy also outlines Millersville University's compliance with Pennsylvania State System of Higher Education, Board of Governors' Policy 2009-01: Criminal Background Investigation. It is the goal of Millersville University to ensure that the best qualified candidates are selected for appointment and to avoid appointing individuals who may pose a threat to students, co-workers, visitors or University property. Nothing herein is intended to contradict or lessen compliance with applicable Federal and State laws or regulations.

This policy applies to all candidates for faculty and non-faculty vacancies at Millersville University. It establishes a process for verifying information provided by candidates for employment including employment history, educational attainment, criminal history and related information such as confirmation of a professional license or records of garnishment where bonding is a prerequisite to hiring.

Procedures

1. Before an offer of employment is extended, the Office of Human Resources, in conjunction with the President, the President's designee, or the appropriate Vice President, will verify the accuracy of the information provided by a candidate being considered for the position. The inquiry will include previous employment, educational attainment, criminal history and other information which is deemed related to the position. An offer of employment will be contingent upon successful completion of all appropriate background checks.
2. Verifications will be made by contacting previous employers and educational institutions attended. The contacts will be made by telephone, via web-based services or in written form with official seals and security as deemed appropriate. Verifications will be conducted by the Office of Human Resources directly or as designated to the appropriate Vice President, or his/her designee, as outlined for each Department. In all cases, the Office of Human Resources will certify that the appropriate verifications have been completed in accordance with this policy.

3. The criminal background investigation will include the following elements:
 - a. Prior to making an offer of employment, a criminal background investigation will be conducted on the finalist(s). For certain high level positions, it may be deemed more efficient to perform checks on several candidates reaching a final stage in the selection process.
 - b. A criminal background investigation will be conducted by a contracted third party provider or a law enforcement agency.
 - c. Candidates must execute an authorization that allows the University to request/conduct a criminal background investigation. This authorization mandated by the Fair Credit Reporting Act, must be a document separate from the employment application (see attachment A). Refusal to give the authorization for release of information will result in the candidate being eliminated and disqualified from consideration.
 - d. Criminal history record searches will only consider felony and misdemeanor convictions.
 - e. For the purpose of this policy, a conviction is an adjudication of guilt and includes determinations before a court, district justice or magistrate and pleas of nolo contendere (no contest) that result in a fine, sentence or probation.
 - f. All records resulting from criminal background investigations will be kept confidential, separate from employee personnel files, and not accessible to supervisors and others who might otherwise have access to an individual's personnel records. These records will be stored in the Office of Human Resources for a period of five (5) years after the position has been filled.
 - g. This policy does not replace any background verification process already in place, for example, for Police Officer vacancies covered by Act 34 and Act 151.
 - h. This policy is consistent with the Fair Credit Reporting Act, Title VII, and other relevant Federal and Commonwealth statutes.

Employment Application

1. All candidates for employment must complete and sign an employment application.
2. The employment application for all positions will contain the following statement: "The selected candidate will be required to submit to a background check including but not limited to employment verification, educational and other credential verification and a criminal background investigation. By your signature, the University is authorized to investigate all statements made on the application and any related resumes or curriculum vitae, and permits the references and past employers to respond to questions concerning information provided as it relates to a candidate's fitness for employment."

3. All employment applications will contain the following criminal history section:

CRIMINAL HISTORY:
CRIMINAL OFFENSE includes felonies and misdemeanor offenses.

CONVICTION is an adjudication of guilt and includes determinations before a court, a district justice or magistrate and pleas of nolo contendere (no contest) that result in a fine, sentence or probation.

For this question disregard: (minor) traffic violations, offenses committed before your 18th birthday which were adjudicated in juvenile court under a Youth Offender Law, and any charges which have been expunged by a court or for which you successfully completed an Accelerated Rehabilitative Disposition Program.

A “Yes” answer is not necessarily a bar to employment.

If you answer “Yes,” please provide a written explanation.

WERE YOU EVER CONVICTED OF A CRIMINAL OFFENSE? YES NO

Criteria for Evaluation

When the results of the criminal background investigation are received from the third party source, the Office of Human Resources, working with the appropriate Vice President, will evaluate the candidate’s fitness for employment in response to the results of the criminal background investigation to determine if the results negatively impact on the candidate’s trustworthiness, or the safety or well being of Millersville University students, employees, and other university constituents. A criminal conviction does not necessarily preclude employment with the University.

When issues are raised by a background investigation, the Associate Vice President for Human Resources, in consultation with the Assistant to the President for Social Equity and Diversity, will confer with the appropriate Vice President to evaluate the impact of the findings on the hiring process. Consultation with the University Legal Counsel will be sought as appropriate.

The following factors will be considered in the review of results of the investigation:

1. The Offense(s)
 - a. The nature and severity of the offense
 - b. The age of candidate at the time of the offense
 - c. The number and types of offenses uncovered by the criminal background investigation relative to a pattern of criminality
 - d. The length of time elapsed since the last offense

- e. Whether the individual is currently subject to any punishment for an offense (probation, parole, community service, etc.)
- f. Whether the circumstances of the offense arose out of an employment situation

2. The Position

- a. The duties and responsibilities of the position in question including but not limited to the nature and scope of the position and whether it entails access to residential facilities of the university, facilities other than the candidate's primary work place, money and other university property, or vulnerable university groups including minor children.
- b. The nature and scope of position's autonomy and discretionary authority.
- c. The nature and scope of supervision that the candidate will receive in the position.
- d. The nature and scope of supervision the candidate will provide to staff and/or students.
- e. The sensitive nature of data, information, or records for which the candidate will have responsibility for or access to in the position.
- f. Any other unique circumstances for which fitness of the candidate for the position may be reasonably questioned relative to the background investigation and the employee's history of performance and behavior in previous jobs and statements of references.

Notification of Results and Right to Appeal

If a decision is made not to hire the candidate on the basis of the results of the criminal background investigation, the Associate Vice President for Human Resources will notify the candidate and provide notice of the candidate's right to appeal the decision. This notice will include an opportunity to receive a free copy of the Criminal Background Report.

The candidate may appeal the decision to the President or his/her designee. Any appeal must be received within five (5) business days of receipt of notice of the initial decision and the appeal may include an explanation of information obtained in the criminal background investigation or dispute of the accuracy of the criminal background investigation results. If employment is denied based in whole or in part on the results of the criminal background investigation, the candidate must be provided with a final notice that an adverse employment action has been taken based on information contained in the criminal background report.

Responsibilities

Associate Vice President for Human Resources and the appropriate Vice President

1. To incorporate the requirements of this policy into the recruitment and selection process.
2. To notify job applicants of the requirements of this policy before and during the recruitment and selection process.
3. To interpret criminal history information and recommend appropriate action to the appropriate Vice President and, if appropriate, the President.
4. To ensure that all individuals who receive background and criminal history information shall keep such information confidential. Information will be provided on a strict need-to-know basis and any discussions must be pertinent to the hiring process.
5. To ensure that background and criminal history investigations are completed prior to extending offers of employment.
6. To assure consistent application of standards in decision making across the University relative to review of work history, educational history, and criminal convictions.

Assistant to the President for Social Equity and Diversity

Ensure that non-discriminatory practices are followed throughout the hiring process.

To evaluate the employment process and approve/disapprove the selection process.

Vice President

To evaluate the results of the background investigation prior to approving the recommendation of the Search Committee.

ATTACHMENT "A"

FAIR CREDIT REPORTING ACT DISCLOSURE & AUTHORIZATION

DISCLOSURE

As an applicant for employment and/or a volunteer position or a current employee of the Millersville University of Pennsylvania, you are a consumer with rights under the Fair Credit Reporting Act. When any of the following circumstances exist, the Millersville University of Pennsylvania may choose to obtain and use information contained in either a consumer report or an investigative consumer report from a consumer reporting agency about you: (1) when considering your application for employment, (2) when making a decision whether to offer you employment, (3) when deciding whether to continue your employment (if you are hired), or (4) when making other employment-related decisions directly affecting you.

A "consumer reporting agency" is a person or business which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information about consumers for the purpose of furnishing consumer reports to others, such as the Millersville University of Pennsylvania.

A "consumer report" means any written, oral or other communication of any information by a consumer reporting agency bearing on your credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing your eligibility for employment.

An "investigative consumer report" means a consumer report or portion thereof in which information on your character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with your neighbors, friends, or associates reported on or with others with whom you are acquainted or who may have knowledge concerning any such items of information. This report may contain criminal information.

The Millersville University of Pennsylvania may request an investigative consumer report. You may request, in writing and within a reasonable time, additional disclosures regarding the nature and scope of the investigation as well as a written summary of your rights under the Fair Credit Reporting Act.

AUTHORIZATION

By signing below, I, _____, hereby voluntarily authorize the Millersville University of Pennsylvania to obtain a consumer report, a motor vehicle check, and an investigative consumer report, which may contain criminal information, about me from a consumer reporting agency and to consider this information when making decisions regarding my employment at Millersville University of Pennsylvania. I understand that I have rights under the Fair Credit Reporting Act, including the rights discussed above.

Signature

Date

NOTE: If applicant/volunteer is under the age of eighteen, a parent or guardian must sign in his/her place.