

College Operating Procedures (COP)



Procedure Title: Employment Background Checks
Procedure Number: 05-0305
Originating Department: Office of Human Resources

Specific Authority:

Board Policy 6Hx6:5.02
Florida Statute n/a
Florida Administrative Code n/a

Procedure Actions: Adopted: 11/21/96; 12/2/08; 1/15/10; 11/1/10; 10/28/13;
11/18/2020; 08/02/2021

Purpose Statement: To provide guidelines for the College to use in the hiring of employees.

PURPOSE:

To provide a safe and secure student and employee environment, all incoming employees will be required to consent to a Criminal Background Check. New employees shall be on probationary status pending criminal background processing. Any employee terminated because of their criminal record shall have the right to appeal such decisions.

Current employees of the FSW charter high schools are required to consent to a Level II Criminal Background Investigation every five (5) years and/or following the disposition of Felony or Misdemeanor charges reported in compliance with Board Rule 5.647 *Felony and Misdemeanor Crimes*. These background checks are performed through the respective districts. Files are maintained at the district.

Refusal to submit to a criminal record check will result in the termination of the candidate for employment, withdrawal of any pending offer of employment or conditional offer of employment, or the termination of any employment previously commenced.

The Chief Human Resources and Organizational Development Officer, will make determination of the status of a current employee whose background results disclose a criminal record not formally disclosed on the application of the employee. Employees whose employment status is adversely affected by a criminal background check shall have the right to appeal.

The College will pay the cost of the criminal background check.

Falsification of the Employment Application may be grounds for immediate dismissal.

PROCEDURE:

During onboarding the employee (excluding employees of the FSW charter schools) shall consent to a background check through Hire Right.

Criminal background records are not kept on file but are retrievable from the original processing agency should they be required to comply with any College or law enforcement investigation.

Criminal Background Records

Only the College President, the Chief Human Resources and Organizational Development Officer (or designee), the criminal background check agency, and the College attorney may have access to Criminal Background Records. No other personnel are to have access to these records except on a case by case basis as directed by the President or Chief Human Resources and Organizational Development Officer. The Chief Human Resources and Organizational Development Officer may share limited pertinent information contained in records with senior College administrators and direct supervisors where there is a valid business related reason for doing so. Employee privacy will be maintained to the extent possible.

The Chief Human Resources and Organizational Development Officer shall bring any criminal background records possibly considered grounds for dismissal, to the attention of the College attorney. The copy of the record presented to the attorney shall have all identifying information such as name, race, address, etc. redacted.

The Chief Human Resources and Organizational Development Officer and/or College attorney shall make the final determination as to whether employment shall be terminated for cause.

Employees shall have the right to examine their criminal background information record if they wish at any reasonable time. No employee shall be terminated without being given an opportunity to review their record, to review their rights under the Fair Credit Reporting Act and to contest inaccuracies contained in the record.

If it is decided to terminate an employee based in whole or in part on any information contained in a criminal background check, notice must be provided to the employee. Said notice must: (1) contain specific information regarding the Reporting Agency that prepared the report (2) state that the Reporting Agency did not make the adverse action decision and is unable to provide the employee with information regarding the decision (3) notify the employee of his/her right to obtain a free copy of his report from the Reporting Agency that provided the report which is the basis of the action; and (4) inform the employee of their right to dispute, with the Reporting Agency, the accuracy or completeness of any information in the report.

Employees terminated under this procedure shall have the right to appeal their termination.

Record Sharing – Public Records Act

The College shall not enter into any agreement to share records obtained for criminal background purposes.

Disqualifying Guidelines Employees with a conviction:

Will not be hired or Employment will be discontinued:

- Serious Violent Crime (Aggravated assault/battery, murder, attempted murder, etc.)
- Sexual Offense (lewd and lascivious behavior, sexual battery, rape)
- Kidnap
- Pornography
- Robbery
- Extortion
- Manslaughter (including vehicular homicide)
- Indecent Exposure, if sexual in nature
- Sale of drugs

Will not be hired or employment will be discontinued, if offense is less than 7 years old, will consider and carefully review if over 7 years old:

- Felony Drug possession, use or intent to distribute
- Grand Theft Embezzlement
- Burglary related to theft
- Felony possession of concealed weapon
- Felony Battery / Assault (on law enforcement officer or teacher, etc.)
- Forgery
- Crimes involving offenses against children, senior citizens or others unable to defend themselves.

Will not be hired or employment will be discontinued, if offense is less than five (5) years old, will consider and carefully review if over 5 years old.

- Possession of a concealed weapon (misdemeanor)
- Battery / Assault
- Resisting arrest with violence
- Domestic Violence (felony)
- Prostitution / solicitation of prostitution

The College will consider the criminal record of each employee in its entirety. However, no employee shall be terminated or refused employment based solely on his/her arrest record unless there is a charge being upheld by a conviction, guilty plea, pre-trial intervention, diversionary agreement, or result other than an outright not-guilty finding, lack of prosecution or a dismissal.