

# Background Investigations

**Policy Owner** Human Resources

**Responsible Office(s)** Human Resources

## Policy

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## Criminal Background Investigation

### Policy

Converse University is committed to hiring qualified employees and providing a safe and secure environment for our students and employees. To that end, criminal background checks will be conducted for all faculty, staff, and student employees to whom job offers are made, and new and current volunteers providing services on behalf of the University who meet the criteria outlined below.

Converse will also verify a candidate's educational qualifications and maintain these verifications as part of the employee record during the background check process. Additionally, a motor vehicle report may be required for any employee who will operate a Converse University vehicle or who will operate a vehicle regularly in the course and scope of his/her employment with Converse. Reviewing MVR data is an annual requirement.

All employees may be subject to background checks at least every five years as a condition of continued employment in accordance with the procedure listed below for candidates. The failure to consent to the background check, including the execution of all documents necessary to allow the check, is grounds for termination of employment.

A criminal background investigation will be performed for any individual who meets any one of the following descriptions:

- Candidates selected to fill a position.
- Individuals who are being considered for reemployment.
- Individuals who have a lapse of employment for one year (rolling calendar year) or greater from the last day worked.
- Student employees working with or having access to minors or children who are less than 16 years of age.
- Employees working with or having access to minors who are not enrolled as students of the University must have a criminal background check at least once every two years.
- Internal employees changing positions at the University due to a promotion, lateral transfer, demotion, or who have been assigned Sensitive Duties.
- Individuals who volunteer as part of a University-sponsored summer camp or program offered to minors. At a minimum, University-sponsored summer camps or programs must comply with criminal background checks every two years for returning volunteers. The Coordinator of such camps or programs will work with the Payroll Administrator and Director of Human Resources to ensure proper communication of new/returning personnel.
- For any employee or volunteer who has been convicted of a misdemeanor, felony, or other offense of moral turpitude or for any crime as listed below.

- Any current employee who reports a criminal charge or conviction as listed below.
- In addition, the University may perform background checks every three years or less as circumstances dictate for employees assigned Sensitive Duties.

**Exception:**

- Faculty members under consideration for reappointment, promotion to a new professional rank, departmental chair position, or the conferral of permanent tenure.

In accordance with the procedure listed below and EEOC Enforcement guidance, any employee (including faculty, staff, and student-employees) charged or convicted of an unlawful offense (excluding minor traffic violations) must report such charge or conviction to Human Resources within three days of such charge or conviction, regardless of when or where such a conviction occurs. The charges or convictions which must be reported include, but are not limited to:

- DUI/DWI,
- Any drug or alcohol-related offenses,
- Offenses related to child molestation, child pornography, indecency with a minor, or other sexual offenses,
- Crimes of violence as defined in the United States Code, [Title 18, Part 1, Chapter 1, Section 16](#), including domestic abuse, or any crime of violence as defined by the [South Carolina Statutes](#),
- Fraud, theft, burglary, robbery, or any misuse of money, funds, credit, or government property and/or,
- Invasion of privacy, identity theft, or stalking, or
- Contempt of court that results in incarceration.

Failure to report any charges or convictions could lead to disciplinary consequences up to and including termination. If a charge or conviction is properly reported, a review of the occurrence will determine if further actions are necessary.

## Confidentiality and Retention of Background Check Records

Employment-related background checks are considered part of the personnel file and are not subject to public release except as required or allowed under applicable provisions of state law. Background check records generated under this policy will be maintained in accordance with the Retention of Documents Policy- *Administrative and Staff Handbook*.

## Definitions

For the purpose of this Policy, the following definitions apply:

1. **"Charge"** means an accusation of a crime by a formal complaint, information, or indictment.
2. **"Conviction"** means guilty verdict, guilty plea, and Alford or Kennedy plea, a plea of 'no contest,' or any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution.
3. **"Employee"** means any individual regardless of whether they are employed by the University in a permanent, temporary, contract, or consulting position.
4. **"Sensitive Duties"** are identified by Risk Management, Safety and Security, VP for Finance & Business/CFO/Controller, Facilities Management, VP Institutional Advancement, CIO, Vice President for Operations and Strategic Planning, and Human Resources. Sensitive Duties include:
  - a. Direct responsibility for the care, safety, and security of non-student minors.
  - b. Direct access to or responsibility for cash, cash equivalents, or credit card information. University property disbursements or receipts, or extensive authority for committing the financial resources of the University.
  - c. Direct access to or responsibility for the safety, security, intellectual property, information technology, or areas designed by the University as safety or security sensitive.

- d. Master key access to a building, residence halls, or other secure facilities. Electronic access and areas requiring a high level of security, such as those that store money, research facilities, etc.

## Procedure for Background Checks

The State Law Enforcement Division (SLED) and/or an outside vendor with whom the University has contracted, hereafter referred to as the Background Investigator, will conduct the criminal background checks with a Human Resources staff member. The University will ensure that all background checks are conducted in compliance with applicable federal and state statutes, including but not limited to the Fair Credit Reporting Act (FCRA), Title VII of the Civil Rights Act, and Converse University's Equal Employment Selection Procedures –Section I-A of Employee Handbook.

Prior to conducting a criminal background check, a consent form to conduct the check must be obtained from the candidate. Additionally, candidates will be asked to disclose any convictions other than minor traffic violations. The form will be kept in strict confidence in the Human Resources Office. The Background Investigator will conduct an investigation in the state(s) in which the applicant has lived and/or worked for at least seven (7) years to determine whether there is any criminal conviction that could affect the hiring decision, as well as other key criminal background checks and will perform a national sex offender list background check.

An offer letter may be extended with a conditional offer “contingent on favorable results from the criminal background check.” If a candidate did not disclose a criminal record, finding, or judgment on the application or during the search process and the candidate is later found to have such a record, finding, or judgment, then an offer of employment may be rescinded, or the employment may be terminated without any additional due process or hearing considerations, regardless of tenure status. Additionally, the employee may be disqualified from future employment by Converse.

If a conviction is detected during the background check process, the hiring official and the hiring official's supervisor, in consultation with the Human Resources Director or designee, will make the determination of fitness for employment. A conviction itself does not constitute an automatic bar to employment. Factors to be considered in determining fitness for employment include, but are not limited to, the relevance of the conviction to the position sought, the time that has elapsed since the problem occurred, and evidence of rehabilitation.

If an adverse hiring decision is made based in whole or part due to the information contained in the criminal background report, a notification letter and a summary of the applicant's rights under the Fair Credit Reporting Act will be mailed to the applicant.

An applicant's criminal conviction report is confidential personnel information, and all parties having knowledge of any of the content therein will maintain it as confidential.

## Version History

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