

Criminal Background Checks Policy

Purpose of the Policy or Policy Statement

The purpose of this policy is to protect Southwestern Michigan College's employees, students and members of the public who have dealings with the College, from suffering physical, emotional, and financial harm. This policy allows the College to decline hiring any individual with a criminal conviction in relation to the job for which they have applied and its established job relevancy, and that hiring the person would be deemed an unacceptable risk. Furthermore, this policy is designed to comply with federal and state regulations.

The following positions are subject to backgrounds checks; these include but are not limited to;

- Senior Administration
- Finance; or employees working with or having access to financial records
- Full-time faculty
- Employees engaged with minors (age 18 and under)
- Student Housing

Related Policies

None

Applicability

Employees

Procedure

The College uses a Consumer Reporting Agency to obtain information in compliance with the Consumer Credit Reform Act of 1996.

All background reports are returned to Human Resources by the Consumer Reporting Agency. If a report includes information about a relevant felony or misdemeanor conviction, information regarding the conviction may be shared, as necessary, with the employee/applicant's immediate supervisor, and/or appropriate Senior Administration.

When considering continued employment, the College will consider felony and misdemeanor convictions to the extent in which they relate to the employee's suitability for employment in the position for which he/she has been hired. Felony or misdemeanor convictions relevant to the position for which an employee has been hired may be grounds for immediate discharge. The significance of felony convictions in regards to employment at Southwestern Michigan College will be determined by the President's Office.

Questions the College will consider when determining relevance include:

- Do the facts of the conviction reflect conduct that is related to the position for which the employee has been hired?

- Is there more than one conviction, or a pattern of criminal activity for which the employee has been convicted?
- How long ago did the conviction(s) occur? What was the age of the employee when the criminal activity occurred?
- Does state law limit an employer's use of the conviction as grounds for discharge?

If the College elects to terminate employment based on an employee's criminal record the College will provide the employee with the following information:

- In accordance with the Consumer Credit Reform Act, before taking any adverse action, the College will provide the employee with a copy of the criminal report, a description of the employee's rights under the Act, and a statement notifying the employee that the College is considering taking adverse action based on the report (Notice of Consideration of Adverse Employment Action). The employee will be given an opportunity to submit information to Human Resources disputing the accuracy of the report before a final decision is made regarding continued employment.
- When a final determination of adverse action is made, the College will advise the employee of the determination and direct the employee to the Consumer Reporting Agency. A statement will be issued to the employee (Adverse Action Notification) that the Consumer Reporting Agency did not make the decision regarding adverse action against the employee. The employee will also be notified of his/her right to obtain the report from the Consumer Reporting Agency and guidelines to dispute its contents.

Employment Applications / Falsification of Records

If candidates do not disclose a conviction on his/her application for employment, and is found to have been convicted of a criminal offense, employment will generally be terminated, due to falsification of an employment record. The Department of Human Resources will conduct all checks and maintain all appropriate background check documents, which will remain separate from employees' personnel files.

Applicable Forms

None