



OLD DOMINION UNIVERSITY

University Policy

Policy #6021 CRIMINAL BACKGROUND CHECKS

Responsible Oversight Executive: Vice President for Human Resources, Diversity, Equity, and Inclusion
Date of Current Revision or Creation: March 3, 2022

A. PURPOSE

The purpose of this policy is to establish the University's guidelines and parameters for conducting criminal background checks to provide a safe and secure environment for its employees, students, and visitors.

B. AUTHORITY

[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 7.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Code of Virginia Section 2.2-1201.1, as amended, Criminal Background Checks for Certain Positions](#)

[Virginia Department of Human Resource Management Policy 2.10 - Hiring](#)

C. DEFINITIONS

Administrative and Professional (AP) Faculty – Employees who perform work directly related to the management of the educational and general activities of the institution, department or subdivision or whose professional positions serve the educational, research, athletic, medical, student affairs, and development functions or activities of the institution.

Adjunct Faculty – Employees appointed to academic adjunct ranks who teach part time and whose compensation is based upon the number of credit hours taught.

Classified Employee – A salaried employee whose terms and conditions of employment are subject to the [Virginia Personnel Act, Code of Virginia Section 2.2-2900 et seq., as amended](#), and who is employed in a classified position.

Criminal Background Check – A report that includes criminal felony and misdemeanor courts records searches based on a social security trace, a national sex offender registry search as well as other appropriate sources of background information.

Emergency Hire – An employee in a one- or two-year restricted appointment who did not compete through a formal search for a teaching, research, administrative, or professional faculty position. The maximum number of consecutive years an emergency hire may be offered a restricted appointment is three years, regardless of the position(s).

Exceptional Hire – An employee hired under the Exceptional Opportunities provision included in the [Recruitment and Selection Process for Instructional and Administrative Faculty](#). An exceptionally well-qualified candidate that was offered employment for an instructional faculty or administrative and professional faculty position where a formal search was not conducted. Requests to hire exceptionally well-qualified candidates for instructional faculty positions must be approved by the President or designee in consultation with the respective Dean, chairs, faculty, Provost and Vice President for Academic Affairs, and the Office of Institutional Equity and Diversity. Requests to hire an exceptionally well-qualified candidate for an administrative faculty position without conducting a search must be approved by the President or designee in consultation with the appropriate Vice President, unit head, and the Office of Institutional Equity and Diversity.

Minor – A person under the age of 18 who is not enrolled or accepted for enrollment at the University. Students who are “dually enrolled” in University courses while also enrolled in elementary, middle or high-school courses are not included in this policy unless such enrollment includes overnight housing in University facilities.

Non-Instructional Part-time Faculty – A person hired in a part-time non-teaching and non-research position with responsibilities that are comparable to administrative and professional faculty. This category is also referred to as “4031,” which is the budget subaccount code used to designate the funding for this type of employee.

Rehired Employee – An employee who previously separated and is currently employed again at the University.

Sensitive Position - The [Code of Virginia \(§2.2-1201.1\)](#) defines sensitive positions as those “generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures; that have access to sensitive information, including access to federal tax information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and that otherwise required by State or Federal law to be designated as sensitive.” Examples of sensitive positions include police officers, nurse practitioners, and information systems security administrators. Teaching positions are generally excluded.

Teaching and Research Faculty - Employees whose work assignments primarily involve instruction, research, and scholarly activities, and who hold academic rank/titles of professor, associate professor, assistant professor, senior lecturer, lecturer, instructor, or the equivalent in an academic unit.

Wage Employee - A non-salaried employee who receives pay for hours worked and is not covered by the provisions of the Virginia Personnel Act. Wage employees are sometimes referred to as hourly employees. Wage employees have no guarantee of employment for a particular term or a particular daily or weekly work schedule; they serve at the will of the designated hiring official and may be terminated at anytime.

D. SCOPE

This policy applies to new and rehired classified employees, teaching and research faculty, administrative and professional faculty, adjunct faculty, non-instructional part-time faculty, and wage employees. Current employees who are transferred or promoted into sensitive positions are also subject to this policy.

Student employees, graduate assistants, volunteers, and interns who are in certain positions that handle confidential or restricted data and/or work with minors may also be required to undergo criminal background checks. For more information on programs involving minors, please see [University Policy 3014, Minors on Campus](#).

Contract workers or vendors performing work or providing services for the University are not covered by this policy but may be required under University contracts to undergo criminal background checks.

Federal and State laws or regulations or professional licensing standards may require background checks or other forms of screening or testing for certain University positions. Such checks, screening, or testing are outside the scope of this policy.

E. POLICY STATEMENT

As a condition of employment, the Department of Human Resources and the Office of Academic Affairs will conduct confidential criminal background checks on new and rehired teaching and research faculty, administrative and professional faculty, exceptional hires, emergency hires, adjunct faculty, non-instructional part-time faculty, classified employees, and wage employees. A background check will not be conducted on employees who are rehired within six months of their separation date if a background check was previously conducted.

Criminal background checks will also be conducted on current employees who are transferred or promoted into sensitive positions. [Virginia Code 2.2-1201.1](#) requires that fingerprint-based criminal history checks must be conducted on finalists for sensitive positions.

Criminal background checks may also be conducted on student employees, graduate assistants, interns, and volunteers who are in certain positions that handle confidential or restricted data and/or work with minors.

Job postings for confidential or restricted positions will state that a criminal background check is required for the position.

Criminal background checks on volunteers will be conducted in accordance with [University Policy #6023, Policy for the Use of Non-Research Related Volunteers](#).

The following departments conduct their own criminal background checks:

1. [ODU Police Department](#) - The ODU Police Department conducts its own background investigation of applicants for sensitive positions within the Department.
2. [Office of Clinical Experiences](#) – The Office of Clinical Experiences in the Darden College of Education and Professional Studies conducts its own background checks for student teacher supervisors.

3. Darden College of Education and Professional Studies - The Darden College of Education and Professional Studies conducts its own criminal conviction investigation of applicants for positions working with children in the Children's Learning and Research Center, which includes a sexual assault/molestation, child abuse and criminal history background check.
4. College of Health Sciences – Select programs in the College of Health Sciences require background checks when clinical placements or service-learning activities involve working with patients or other vulnerable population in the community. The background check includes The Patriot Act search, Social Security Alert, residency history, criminal records, Federal criminal records, and sex offender.

Other University activities and programs may require criminal background checks as required by law. Certain other positions not described above may also require a criminal background check.

F. PROCEDURES

1. Conducting the Criminal Background Checks

Selected candidates for positions at the University must complete an Authorization and Consent for Release of Information form to consent to a criminal background check. In compliance with the [Fair Credit Reporting Act \(FCRA\)](#), the candidate will also receive a copy of A Summary of Your Rights and Consumer Disclosure Form.

Criminal background checks will include a criminal felony and misdemeanor court search based on a social security number trace and a National Sex Offender Registry search as well as other appropriate sources of background information. The Department of Human Resources and the Office of Academic Affairs staff will conduct the criminal background check in the appropriate systems. The Office of Risk Management will administer the background screening of staff and volunteers participating in programs involving minors in accordance with [University Policy 3014, Minors on Campus](#). For candidates who resided in the Commonwealth of Virginia within the last seven years, the background check is conducted in the Virginia State Police criminal record check system. If the candidate has lived outside of the Commonwealth of Virginia within the last seven years, an alternate system will be used. Background screening requirements for programs involving minor children will be administered according to [University policy 3014, Minors on Campus](#).

2. Review Process

Although a background check will include at a minimum a criminal history and social security number trace, it is the responsibility of the hiring manager to check employment and/or personal references and to verify required professional licenses and certifications prior to submitting a request for a formal background check. Academic degrees will continue to be verified through the National Student Clearinghouse, the appropriate institution, or vendor. If required for the position, a Motor Vehicle Report (MVR) may also be requested by the hiring official. Depending on the job-relatedness, additional background information may be requested by the hiring official. This determination will be made in consultation with the Department of Human Resources.

If criminal convictions are found and are considered job-related, the Department of Human Resources or the Office of Academic Affairs staff will notify the hiring manager as soon as

possible. In compliance with FCRA, the candidate will be given an opportunity to explain any negative information and a copy of a summary of his or her rights under the FCRA. The candidate may be asked to provide additional information about the offense(s); the job-relatedness of the convictions will be determined by the Department of Human Resources. The determination may be in consultation with University Counsel, the Office of Institutional Equity and Diversity, the Dean of the College, the Chair of the Department, and the hiring manager. The candidate will be granted a reasonable period (five days) to contest the information. Failure of the applicant to provide requested documentation may result in the applicant's removal from further consideration for employment. The decision to offer employment must be based on the following factors:

- a. the nature and gravity of the offense or offenses;
- b. the time that has passed since the conviction and/or the completion of the sentence; and
- c. the nature of the job.

The hiring manager must submit a written justification of the decision to hire to the Vice President for Human Resources, Diversity, Equity, and Inclusion. If the hiring manager and the Vice President for Human Resources, Diversity, Equity, and Inclusion agree on the decision, the approval will be documented and the Department of Human Resources and/or the Office of Academic Affairs will notify the applicant accordingly. If the hiring manager and the Vice President for Human Resources, Diversity, Equity, and Inclusion disagree, the Vice President for Human Resources, Diversity, Equity, and Inclusion and University Counsel (and Assistant Vice President for Institutional Equity and Diversity if necessary) will make the final determination in consultation with the appropriate senior administrator.

For criminal background checks conducted by the Department of Human Resources and Office of Academic Affairs, a note regarding the outcome of the criminal background check is retained in the confidential position recruitment file for positions that were advertised and in a confidential file for emergency hires appointments. The Office of Academic Affairs also keeps track of the criminal background check completion date for adjunct faculty in the Adjunct Personnel Database File (e.g., ADFILE). The criminal history report obtained during the hiring process will be destroyed by shredding once it has served that purpose.

If an adverse employment action is taken as a result of the criminal background check, the Department of Human Resources or Office of Academic Affairs, as required by the [Fair Credit Reporting Act](#), will provide the candidate with the name, address, and phone number of the agency that provided the information.

3. Preliminary Offers

Employment offers are not made until after the results of the background check have been received; however, contingent offers may be made to candidates for teaching and research faculty, administrative and professional faculty, adjunct faculty, and non-instructional part-time faculty positions. The offer letter must include language that the continuation of employment is contingent on the satisfactory results of the background check.

4. Access to Criminal Background Check Details

Virginia law limits access to the details contained in a criminal background check. This policy limits access only to those persons permitted access by law. The persons permitted access are required to maintain the confidentiality of the information in such reports.

5. Sanctions

Violations of University policies, including providing false or misleading information used for any of the above background checks, will be handled in accordance with applicable University policies and procedures, which may include corrective actions up to and including separation from the University.

G. RECORDS RETENTION

Applicable records must be destroyed in accordance with the [Commonwealth's Records Retention Schedule 103, Series 02349 \(Criminal History/Background Check Records\)](#) at the conclusion of the recruitment.

H. RESPONSIBLE OFFICER

Director of Total Compensation and Staffing, Department of Human Resources

I. RELATED INFORMATION

[Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964](#)

[The National Child Protection Act of 1993](#)

[Code of Virginia Section 19.2-389, as amended, Dissemination of Criminal History Record Information](#)

[Commonwealth of Virginia Executive Order 41 \(2015\), Implementation of "Ban the Box" Hiring Policies in the Commonwealth](#)

[Board of Visitors Policy 1450 – Faculty Sanctions](#)

[University Policy 6600 – Standards of Conduct for Classified Employees](#)

[Information Technology Standard 02.3.0 – Data Administration and Classification Standard](#)

POLICY HISTORY

Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

/s/ Nadine Faulcon-Johnson February 28, 2022
Responsible Officer Date

Policy Review Committee (PRC) Approval to Proceed:

/s/ Donna W. Meeks February 8, 2022
Chair, Policy Review Committee (PRC) Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

/s/ September Sanderlin March 1, 2022
Responsible Oversight Executive Date

University Counsel Approval to Proceed:

/s/ Allen T. Wilson March 2, 2022
University Counsel Date

Presidential Approval:

/s/ Brian O. Hemphill, Ph.D. March 3, 2022
President Date

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Scheduled Review Date: March 3, 2027