Policy: CRIMINAL BACKGROUND SCREENING PROCEDURES

Supersedes Policy No. G021, Dated 01/29/09

Recommended For Approval by: Guilbert L. Brown, Vice President for Finance and Administration

Approved By: Dr. Julie E. Wollman, President on 12/31/14

Effective Date

Review Date: As Required

History: Board of Governors' Policy 2014-01-A: Protection of Minors, was initially approved in July 2014. Act 153 of 2014 was passed into law in October 2014, which significantly changed background check clearance requirements for employees and volunteers. This procedure is intended to provide direction for implementation of these changes.


Key Words/Categories: Personnel, Volunteers, Minors


I. Introduction

Board of Governors' Policies 2014-01-A: Protection of Minors, and 2009-01: Criminal Background Investigations, require the chancellor, as agency head, to establish procedures and standards for the implementation of requirements for background clearances for employees and volunteers in accordance with these policies and applicable state law.

II. Definitions

A. Independent Contractor: An individual who provides a program, activity, or service to the university that is responsible for the care, supervision, guidance, or control of children.

B. Program, Activity, or Service: Programs, activities, or services offered by various academic or administrative units of the university, or by non-university groups and/or independent contractors using university facilities where the parents or legal guardians are not responsible for the care, custody, or control of their children. This includes, but is not limited to, workshops, services, camps, conferences, campus visits, and similar activities. These do not include organized events where parents or legal guardians are responsible for minors.

C. Reportable Offense: Any of several criminal offenses enumerated in Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §6344(c). See paragraph IV.B.
D. **Volunteer:** Any individual, authorized by an appropriate appointing authority or
designee of an appointing authority, who provides services to the university without
remuneration from the university. For purposes of this procedure, this includes
members of governing bodies and employees of affiliate organizations.

III. **Background Screening for Employees and Volunteers**

A. All employees, prospective employees, and volunteers are required to have the
following background screening clearances.

1. A criminal history record check from the Pennsylvania State Police (PSP) or
statement from the PSP that the individual has not been convicted of a reportable
offense.

2. Certification from the Department of Human Services (formerly Department of
Public Welfare) as to whether the individual is named in the statewide database
as a perpetrator in a pending child abuse investigation or in a founded or
indicated report of child abuse within the last five years.

3. A federal criminal history record check. The individual must submit a full set of
fingerprints to the PSP (via contractor Cogent, Inc.) to obtain this report. The PSP
will submit the fingerprints to the Federal Bureau of Investigation for the purpose of
verifying the identity of the individual and obtaining a current record of any criminal
arrests and convictions.

B. The above clearances are required for the following individuals, within the following prescribed time
frames.

1. New employees- pre-employment and then every three years.
2. Current employees without certifications,- by December 31, 2015, and every three
years thereafter.
3. Current employees with certifications more than 36 months old,- new checks
by December 31, 2015, and every three years thereafter.
4. Current employees with certifications less than 36 months old,- new checks
within 36 months of existing checks.
5. New volunteers, - pre-volunteering.
6. Current volunteers, - as soon as possible, but no later than June 30, 2015.

C. **Exception for volunteers** - The federal criminal history record check identified in
paragraph III.A.3. is not required if all of the following apply:

1. The position for which the prospective volunteer is applying is unpaid.

2. The prospective volunteer has been a resident of this Commonwealth during the
entirety of the previous ten-year period.

3. The prospective volunteer swears or affirms in writing that he/she is not disqualified
from service or has not been convicted of an offense similar in nature to those
crimes listed in paragraph IV.B. or under the laws or former laws of the United
States or one of its territories or possessions, another state, the District of
Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former
law of this Commonwealth.
D. Provisional employees and volunteers for limited periods- The university may employ applicants on a provisional basis for a single period not to exceed 90 days and volunteers not to exceed 30 days, if all of the following conditions are met.

1. The applicant has applied for all three checks required under paragraph III.A., and the applicant provides a copy of the appropriate completed request forms to the university Human Resources Office.

2. The university has no knowledge of information pertaining to the applicant that would disqualify him/her from employment pursuant to paragraph IV.

3. The applicant swears or affirms in writing that he/she is not disqualified from employment pursuant to paragraph IV or has not been convicted of an offense similar in nature to those crimes listed in paragraph IV under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth. (See paragraph V for the reporting tool.)

4. If the information obtained pursuant to paragraph III.A. reveals that the applicant is disqualified from employment pursuant to paragraph IV, the applicant shall be immediately dismissed.

5. The applicant shall not be permitted to work alone with children, and the applicant shall work in the immediate vicinity of a permanent employee.

IV. Reporting of Arrests and Convictions

A. All employees, volunteers, and program administrators must provide written notice to the university Human Resources Office if they or an authorized adult or program staff are: 1) arrested for, or convicted of, a reportable offense (listed below) that would constitute grounds for denial of employment or participation in a program, activity, or service; or 2) named as a perpetrator in a founded or indicated report of child abuse. The employee, volunteer, or program administrator shall provide such written notice within 72 hours of arrest or conviction and within 72 hours of the notification that the person has been listed as a perpetrator in the statewide database (See paragraph V for the reporting tool). The failure of any individual covered by this paragraph to make a written notification as required above is a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment or volunteer position.

B. A Reportable Offense enumerated under the Child Protective Services Law, 23 Pa.C.S. §6344(c), consists of:

1. A founded report within the preceding five-year period in the statewide database maintained by Department of Human Services.

2. One or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or an equivalent crime under the laws or former laws of the United States or one of its territories or
possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania:

a. Chapter 25 relating to criminal homicide.
b. Section 2702 relating to aggravated assault.
c. Section 2709.1 relating to stalking.
d. Section 2901 relating to kidnapping.
e. Section 2902 relating to unlawful restraint.
f. Section 3121 relating to rape.
g. Section 3122.1 relating to statutory sexual assault.
h. Section 3123 relating to involuntary deviate sexual intercourse.
i. Section 3124.1 relating to sexual assault.
j. Section 3125 relating to aggravated indecent assault.
k. Section 3126 relating to indecent assault.
l. Section 3127 relating to indecent exposure.
m. Section 4302 relating to incest.
n. Section 4303 relating to concealing death of a child.
o. Section 4304 relating to endangering welfare of children.
p. Section 4305 relating to dealing in infant children.
q. A felony offense under Section 5902(b) relating to prostitution and related offenses.
r. Section 5903(c) or (d) relating to obscene and other sexual materials and performances.
s. Section 6301(a)(1) relating to corruption of minors.
t. Section 6312 relating to sexual abuse of children.

3. An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," committed within the preceding five-year period.

C. If the university or program administrator has a reasonable belief that an employee or volunteer has been arrested or convicted of a reportable offense or was named as perpetrator in a founded or indicated report, or if an employee or volunteer has provided notice of activity that would be sufficient to deny employment or program participation, the university requires the employee or volunteer to immediately submit current information as required for the three background clearance checks listed above.

V. Reporting Tools for Employees and Volunteers

The attached forms indicated below are to be used as noted:

1. Background Clearance Certification for Provisional Employment and Volunteering – used for the provisional hire of new employees and/or volunteers.
2. 72-Hour Self Reporting of reportable Offenses- used by all employees, volunteers and program administrators to report offenses.
3. Volunteer Exemption from FBI Background Check – used by volunteers only.
VI. Maintenance and Confidentiality of Records

A. The university Human Resources Office shall maintain a copy of the screening checks described in section III. above for employees and volunteers.

B. The university Human Resources Office requires each individual to produce the original document prior to employment or acceptance to serve in any such capacity, except as allowed under paragraph III.D.

C. The information compiled under this procedure shall be confidential and shall not be subject to the Act of February 14, 2008 (P.L. 6, No. 3), known as the Right-To-Know Law. This information shall not be released except as permitted by the Pennsylvania Department of Human Services through regulation. A copy of this information shall be held by the university for a period of 25 years.

VII. Background Screening for Independent Contractors

Before being allowed to use or lease university facilities, program administrators of non-university-sponsored programs or non-university groups and/or independent contractors providing services to university-sponsored programs are required to certify that they have conducted criminal background checks and determined the fitness of all authorized adults and program staff.
Please read this entire form carefully before completing it. This form is to be used by prospective employees/volunteers to meet the written certification requirement to be considered as a provisional hire or volunteer assignment. In certain limited circumstances, current employees/volunteers may need to complete this form.

Section 1. Personal Information

Full Legal Name: ________________________________ Date of Birth: ___/___/_____

Any former names or aliases by which you have been identified: ________________________________

Section 2. Instructions

Please submit this form to ________________________________. [To be completed by the university.]

If you have any question about whether to report an offense, you should report it. Failure to report may result in disqualification for employment.

List of Reportable Offenses

A Reportable Offense enumerated under Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §6344(c), consists of one or more of the following:

1. Provisions of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or an equivalent crime under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania:

   - Chapter 25 relating to criminal homicide
   - Section 2702 relating to aggravated assault
   - Section 2709.1 relating to stalking
   - Section 2901 relating to kidnapping
   - Section 2902 relating to unlawful restraint
   - Section 3121 relating to rape
   - Section 3122.1 relating to statutory sexual assault
   - Section 3123 relating to involuntary deviate sexual intercourse
   - Section 3124.1 relating to sexual assault
   - Section 3125 relating to aggravated indecent assault
   - Section 3126 relating to indecent assault
   - Section 3127 relating to indecent exposure
   - Section 4302 relating to incest
   - Section 4303 relating to concealing death of a child
   - Section 4304 relating to endangering welfare of children
   - Section 4305 relating to dealing in infant children
   - A felony offense under Section 5902(b) relating to prostitution and related offenses
   - Section 5903(c) or (d) relating to obscene and other sexual materials and performances
   - Section 6301 relating to corruption of minors
   - Section 6312 relating to sexual abuse of children

2. An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," committed within the preceding five-year period.

3. A founded report of child abuse within the preceding five-year period in the statewide database maintained by the Department of Human Services.
Section 3. No Conviction

☐ By checking this box, I certify that I have not been convicted of any Reportable Offense or an offense similar in nature to a Reportable Offense under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania. (See Section 2 for a list of Reportable Offenses.)

Section 4. Application for Background Checks

I certify that I have applied for the following required background clearance checks:

☐ A report of criminal history record from the Pennsylvania State Police (PSP) or statement from the PSP that no criminal record exists.

☐ Certification from the Pennsylvania Department of Human Services as to whether I am named in the statewide database as a perpetrator in a pending child abuse investigation or in a founded report or indicated report of child abuse.

☐ A report of federal criminal history record information. I understand that I must submit a full set of fingerprints to the PSP to obtain this report.

☐ I further certify that I have provided copies of the completed request forms for these background clearance checks to Pennsylvania’s State System of Higher Education. (Appropriate forms may be attached to this Certification Form.)

Section 5. Certification

By signing this form, I swear and affirm under penalty of law that the statements made in this form are true, correct, and complete. I understand that false statements herein, including, without limitation, any failure to accurately report any arrest or conviction for a Reportable Offense, shall subject me to criminal prosecution under 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Signature

Date

This form has been developed by Pennsylvania’s State System of Higher Education, pursuant to Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §6301 et seq. December 19, 2014
Please read this entire form carefully before completing it. This form is to be used by current employees and volunteers to provide written notice within 72 hours after an arrest or conviction for a Reportable Offense or notice of being listed in the statewide database as a perpetrator of a founded or indicated report of child abuse.

Section 1. Personal Information

Full Legal Name: ____________________________ Date of Birth: __/__/____

Any former names or aliases by which you have been identified: ____________________________________________________________

Section 2. Instructions

Individuals completing this form are required to submit the form to the administrator or other person responsible for employment decisions at the university. If you have questions regarding to whom the form should be sent, please contact your supervisor or the office of human resources at the university.

If you have any question about whether to report an offense, you should report it. An employee or volunteer who willfully fails to disclose information required for self-reporting could be charged with a misdemeanor of the third degree and may be subject to discipline up to and including termination or denial of employment or volunteer position.

List of Reportable Offenses

A Reportable Offense enumerated under Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §6344(c), consists of one or more of the following:

4. Provisions of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or an equivalent crime under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania:

- Chapter 25 relating to criminal homicide
- Section 2702 relating to aggravated assault
- Section 2709.1 relating to stalking
- Section 2901 relating to kidnapping
- Section 2902 relating to unlawful restraint
- Section 3121 relating to rape
- Section 3122.1 relating to statutory sexual assault
- Section 3123 relating to involuntary deviate sexual intercourse
- Section 3124.1 relating to sexual assault
- Section 3125 relating to aggravated indecent assault
- Section 3126 relating to indecent assault
- Section 3127 relating to indecent exposure
- Section 4302 relating to incest
- Section 4303 relating to concealing death of a child
- Section 4304 relating to endangering welfare of children
- Section 4305 relating to dealing in infant children
- A felony offense under Section 5902(b) relating to prostitution and related offenses
- Section 5903(c) or (d) relating to obscene and other sexual materials and performances
- Section 6301 relating to corruption of minors
- Section 6312 relating to sexual abuse of children

5. An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as “The Controlled Substance, Drug, Device and Cosmetic Act,” committed within the preceding five-year period.

6. A founded report or indicated report of child abuse within the preceding five-year period in the statewide database maintained by the Department of Human Services.
Section 3. Report of Arrest or Conviction

☐ By checking this box, I report that I have been arrested for, or convicted of, a Reportable Offense or an offense similar in nature to a Reportable Offense under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania; or that I have been named as a perpetrator of a founded or indicated report in the statewide database maintained by the Department of Human Services. (See Section 2 for a list of Reportable Offenses.)

For each arrest for or conviction of any Reportable Offense, specify in the space below (or on additional attachments, if necessary) the offense for which you have been arrested or convicted, the date and location of arrest and/or conviction, docket number, and the applicable court.

Section 4. Certification

By signing this form, I swear and affirm under penalty of law that the statements made in this form are true, correct, and complete. I understand that false statements herein, including, without limitation, any failure to accurately report any arrest or conviction for a Reportable Offense, shall subject me to criminal prosecution under 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Signature

Date

This form has been developed by Pennsylvania’s State System of Higher Education, pursuant to Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §§6301 et seq., December 19, 2014
Pennsylvania’s State System of Higher Education
Volunteer Exemption from FBI Background Check
(Under the Child Protective Services Law)

Please read this entire form carefully before completing it. This form is to be used by a Pennsylvania resident who serves or wants to serve as a volunteer with a program or activity associated with Pennsylvania’s State System of Higher Education or one of its universities and seeks exemption from the requirement to submit a report of federal criminal history record information (FBI background check). You are still required to submit a report of criminal history record information from the Pennsylvania State Police and a certification from the Department of Human Services concerning child abuse.

Section 1. Personal Information

Name of Volunteer: ________________________________ Date: ___/___/_______

Current Address: __________________________________________________________

Number of Months __________ Years __________ at this Address*

*If less than 10 years, provide prior Pennsylvania addresses on a separate page.

Volunteer Position: _________________________________________________________

Section 2. Instructions

Check the appropriate boxes below. Then, sign the certification under Section 3.

☐ By checking this box, I certify that I have been a resident of Pennsylvania for the entirety of at least the last 10 consecutive years prior to the date of this application, which is set forth above.

☐ By checking this box, I certify that I have not been convicted of any of the Reportable Offenses listed below.

List of Reportable Offenses

A Reportable Offense enumerated under Pennsylvania’s Child Protective Services Law, 23 Pa.C.S. §6344(c), consists of one or more of the following:

7. Provisions of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or an equivalent crime under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth of Pennsylvania:

- Chapter 25 relating to criminal homicide
- Section 2702 relating to aggravated assault
- Section 2709.1 relating to stalking
- Section 2901 relating to kidnapping
- Section 2902 relating to unlawful restraint
- Section 3121 relating to rape
- Section 3122.1 relating to statutory sexual assault
- Section 3123 relating to involuntary deviate sexual intercourse
- Section 3124.1 relating to sexual assault
- Section 3125 relating to aggravated indecent assault
- Section 3126 relating to indecent assault
- Section 3127 relating to indecent exposure
- Section 4302 relating to incest
- Section 4303 relating to concealing death of a child
- Section 4304 relating to endangering welfare of children
- Section 4305 relating to dealing in infant children
- A felony offense under Section 5902(b) relating to prostitution and related offenses
- Section 5903(c) or (d) relating to obscene and other sexual materials and performances
- Section 6301 relating to corruption of minors
- Section 6312 relating to sexual abuse of children
8. An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," committed within the preceding five-year period.

9. A founded report within the preceding five-year period in the statewide database maintained by the Department of Human Services.

Section 3. Certification

I understand that by submitting this completed Volunteer Exemption Form, I swear or affirm that all of the information I have provided on this application is complete, accurate, true, and correct. I make this declaration subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Volunteer's Signature

Date

This form has been developed by Pennsylvania's State System of Higher Education, pursuant to Pennsylvania's Child Protective Services Law, 23 Pa.C.S. §6301 et seq. December 16, 2014