



Kutztown University Policy A&F-025

Criminal Background Investigations

A. Purpose

This policy is implemented in compliance with Pennsylvania State System of Higher Education Board of Governors Police 2009—1 to ensure a consistent level of Criminal Background Investigations for appointees for all positions in the Pennsylvania State System of Higher Education (PASSHE). Nothing herein is intended to contradict or lessen compliance with applicable federal and state laws or regulations.

B. Scope

This policy applies to all newly hired employees and individuals granted official volunteer status at Kutztown University, but does not apply to student employees hired via Kutztown University's Student Payroll, except those students who are employees of the Conference Services Programs, as detailed below

This policy does not replace or change the specific background verification process already in place for Public Safety and Police Services employees.

Employees, including student employees and employees of a transient nature, of the Conference Services Programs working in positions having a significant likelihood of regular contact with children in the form of care, guidance, supervision or training, will be required to have appropriate Act 34, Act 151 and FBI clearances prior to commencing employment. All other employees of these programs will be required to have a background check appropriate to their job function. These checks will be monitored by Conference Services and Athletics as appropriate but consistent with the criteria established by Human Resources.

C. Definitions

Criminal Background Investigations include inquiries to determine past criminal convictions. All inquiries must comply with all state and federal laws.

Newly Hired includes all first time employees of Kutztown University and those returning to employment after a break in service of one year or more.

D. Policy & Procedure

1. Employment Applications.

Prior to an offer of employment candidates must complete and sign an employment application. The candidate's signature authorizes the University to investigate all statements made on the application and permits the references and past employers to respond to questions concerning information contained in the application and concerning the candidate's fitness for employment. All employment applications will contain the following criminal history section:

CRIMINAL HISTORY:

CRIMINAL OFFENSE includes felonies and misdemeanor offenses.

CONVICTION is an adjudication of guilt and includes determinations before a court, a district justice or magistrate and pleas of *nolo contendere* (no contest) that result in a fine, sentence or probation.

For this question disregard: minor traffic violations (no points), offenses committed before your 18th birthday which were adjudicated in juvenile court under a Youth Offender Law, and any charges which have been expunged by a court or for which you successfully completed an Accelerated Rehabilitative Disposition Program.

A "Yes" answer is not necessarily a bar to employment.

If you answer "Yes", please provide a written explanation.

WERE YOU EVER CONVICTED OF A CRIMINAL OFFENSE? YES NO

The candidate must also execute an authorization that allows the University to request/conduct a Criminal Background Investigation. This authorization, mandated by the Fair Credit Reporting Act, must be a document separate from the employment application. Refusal to sign the authorization for the release of information will result in the candidate being eliminated and disqualified from the applicant pool.

2. Completion of Investigation

Criminal Background Investigations shall be completed only on the successful candidate prior to employment, except when to do so would jeopardize successful completion of the search. In the event of delay in completing background investigations prior to the offer of employment, the letter of offer must indicate that the offer is conditional pending satisfactory results of a background investigation.

3. Confidentiality of Information

Results of Criminal Background Investigations obtained by any means must be kept confidential. The Executive Director of Human Resources or designee are the sole individuals who will be responsible for initiating the Criminal Background Investigation and receiving its results. The Department of Human Resources is not to share the specific details of a Criminal Background Investigation with anyone other than the President, University Legal Counsel and as applicable the President's Cabinet. Failure to abide by this policy may result in discipline. All records resulting from Criminal Background Investigations shall be kept separate from employee personnel files and shall not be accessible by supervisors and others who might otherwise have access to an individual's personnel records, save the President and the Executive Director of Human Resources.

4. Background Investigations

When a Criminal Background Investigation is performed, through either a law enforcement agency or some other third party, it shall be initiated only by the Executive Director of Human Resources or designee. The law enforcement agency or third party vendor will return the results of the Criminal Background Investigation obtained to the Executive Director of Human Resources or designee. If no issues arise because of the check, the Executive Director of Human Resources or designee will so inform the employing unit.

Prior to taking any adverse employment action based upon information contained in a Criminal Background Investigation prepared by a third party, the Executive Director of Human Resources will provide the candidate with a copy of the report and a notice summarizing the individual's rights under the Fair Credit Reporting Act. The candidate must be given a reasonable opportunity (at least 5 business days) to submit information to the Executive Director of Human Resources disputing the accuracy and/or completeness of the report before a final decision can be made.

Appointing authorities shall not consider nonofficial accusations or arrests. Only felony and misdemeanor convictions may be considered by the University and only to the extent to which they relate to the applicant's suitability for employment in the position for which he/she has applied. The University reserves the right to defer employment decisions for pending actions. Criminal conviction does not necessarily preclude employment with the University.

When evaluating this information, the following will be considered: the nature and gravity of the offence; the amount of time that has passed since the conviction and/or completion of the sentence; the nature of the job in question. When issues are raised by a Criminal Background Investigation, the Executive Director of Human Resources, in consultation with University Legal Counsel, will evaluate their impact on the hiring decision consistent with applicable laws and this policy. If employment is denied, based in whole or in part on the results of the Criminal Background Investigation, the candidate must be informed by the University of the reasons for

Policy A&F-025

the decision and offered an opportunity to receive a free copy of the report and challenge any information contained therein within 60 days. The notice must also indicate the name and address of the reporting agency that completed the Criminal Background Investigation and must also indicate that the reporting agency did not make the adverse employment decision and that the reporting agency is not privy to why the University made its adverse employment decision.

E. Effective Date

April 1, 2009

F. Approved By

F. Javier Cevallos, President

G. Last Review

August, 2009

August, 2010

August, 2011

August, 2012

August, 2013