



<b>Policy Name:</b>	Policy on Background Checks		
<b>Associated Forms:</b>	Background Check Application	<b>Policy Number:</b>	2022-14
<b>Reviewed:</b>	Non-Academic Policy Review Committee	<b>Approved:</b>	September 28, 2022
<b>Approval Authority:</b>	President <i>Timothy L. Hall</i>	<b>Adopted:</b>	October 5, 2022
<b>Responsible Executive:</b>	Chief Financial Officer	<b>Revised:</b>	N/A
<b>Responsible Department:</b>	Office of Human Resources	<b>Contact:</b>	Director or Associate Director of Human Resources

## **I. Introduction**

Mercy College is committed to providing a safe and secure environment for our community, including students, employees, contractors and visitors, as well as safeguarding the assets and resources of the College. In support of this effort, any applicant for a position at Mercy who receives a conditional offer of employment, will undergo a background check. Rehires with a break in service of more than six consecutive months, will also be required to undergo a background check.

A background check will consist of a criminal record search (including the 50-state sex offender registry), education, and employment verifications. Some applicants will also be required to undergo drug testing, motor vehicle, fingerprinting, or an unscored credit check depending on the nature of the position. Applicants for such positions will be notified of this requirement when a conditional offer of employment is made. The background check must be completed, and the selected finalist must be cleared by the Office of Human Resource (HR) before commencing employment at the College. Applicants are not permitted to begin working until the background check clearance is issued unless an exception is approved in advance by the Director of HR or designee.

Any information that is falsely reported or omitted by an applicant or an employee, may be cause for withdrawal of an offer of employment, promotion or transfer and/or may constitute cause for termination of employment and disqualification of future hire.

Employees covered by this policy are required to report to HR any criminal convictions that take place during the course of their employment, excluding infractions punishable only by a fine. Failure to promptly report such convictions may lead to disciplinary action up to and including termination of employment.

Current employees whose position changes as a result of a transfer, promotion, or reclassification may be required to undergo a background check, including if a background check was not conducted when initially hired or because of the nature of the position requires one.

## **II. Elements of Background Check**

Background checks may include:

- Criminal records

- Credit reports
- Verification reports (e.g. identity, previous employment, education, SSN)
- Driving records (if relevant to the position)
- Reference checks

All candidates are not required to pass every type of background check we offer before the College hires them. Some positions have their own requirements. For example, driving records may be relevant to hiring admissions recruiters and drivers for College vehicles, but not to hire office managers. The basic background screening includes verification reports and reference checks.

### **III. Circumstances for Background Checks**

Local laws may prohibit or restrict certain types of background checks. The College complies with all local, state and federal laws.

Criminal record checks are essential if candidates are interviewing for positions where they will, for example:

- Represent the College and deal with our students
- Have access to sensitive and confidential information
- Handle money and finances

In the interest of saving time and money, Mercy only conducts background checks on candidates to whom we have made a conditional offer. Background screening may not be used as a way to disqualify someone or reduce the number of applicants for a position. Background checks are meant to reinforce a hiring decision and ensure candidates who have been selected for a job are suitable.

### **IV. Background Check Entitlements**

Human Resources staff must:

- Inform candidates that a background check is required in the position's job advertisement.
- Ask candidates to provide written permission before conducting a background check and let them know how long the process will take.
- Inform candidates of the results of their background checks and what we plan to do (reject or move candidates to the next hiring phase.)
- Give candidates information they need to dispute a report or address any issues a background check reveals.

## **VI. Procedure Guidelines:**

The College aims for a transparent hiring process that respects candidates' rights. Mercy follows this procedure for background screening:

1. Background checks are conducted on all new hires, regardless of job title.
2. Human Resources ("HR") notes in the job ad that a background check is required before employment.
3. When candidates are given an offer, HR contacts the candidates to get written permission for background checks and explains the process.
4. If candidates refuse to go through background screening, HR informs them that they will not be considered for the position. If candidates provide written permission, background-check providers can initiate the review.
5. Once HR receives background check results, if an issue is uncovered, HR discusses them with hiring managers and the General Counsel to decide next steps for the candidates and the position.
6. HR informs candidates of their decisions.
7. If there are negative findings, HR must:
  - a. Ensure the candidate gets a copy of their individual background check reports, and HR must let candidates know how to dispute the report.
  - b. Provide the applicant with a written copy of the analysis; and
  - c. Gives the applicant at least three business days to respond to the written analysis (while holding the position open)

Mercy's [Confidential Information Policy](#) applies to information background checks uncover.

## **VII. Application of Negative Findings**

Criminal records (including pending arrests) do not automatically disqualify candidates from the hiring process. Mercy will judge the substance of criminal records according to these criteria:

1. New York's public policy encouraging the hiring of individuals with prior criminal offenses;
2. The job applicant's specific duties and responsibilities necessarily related to the position;
3. The bearing, if any, the criminal offense(s) for which the person was previously convicted will have on the job applicant's ability to perform the duties and responsibilities of the position;
4. The time which has elapsed since the occurrence of the criminal offense(s);

5. The age of the person at the time of the occurrence of the criminal offense(s);
6. The seriousness of the offense(s);
7. Any information produced by the job applicant (or on their behalf) with respect to their rehabilitation and good conduct; and
  - The “legitimate interest” of the private employer in “protecting property and the safety and welfare of specific individuals or the general public.”

Only after this eight-step process has been completed may the College withdraw a conditional offer of employment, and even then, the College may only do so if it determines that 1. there is a direct relationship between the criminal offense and the specific job the employee is seeking, or 2. hiring the applicant would pose an unreasonable risk to property or the safety/welfare of individuals or the general public.

HR can call candidates to discuss the results of their background checks in cases of minor discrepancies (e.g. a suspended license.) If candidates answer satisfactorily, they may still be hired to work with the College.

Situations where the College may **never** inquire about an employee’s or applicant’s prior criminal history (for both job applicants and current employees) include:

- non-convictions (e.g., arrests that were not prosecuted; acquittals; dismissed charges; expunged cases; and vacated convictions)
- cases adjourned in contemplation of dismissal
- youthful offender cases
- violations (e.g., disorderly conduct)
- non-criminal offenses (with the exception of driving infractions)
- sealed cases