

## **Background Check Policy and Guidelines**

### **Purpose and Scope**

To ensure the safety of the Clark community, Clark must conduct background checks on individuals seeking employment at Clark and, under certain circumstances, current employees, students, independent contractors, and volunteers (i.e. individuals not being paid for services). Note that students are only impacted by this policy insofar as they are working or engaging with minors on campus in an employee, volunteer or similar capacity.

Information discovered through the background check process will be used solely for the purpose of evaluating a finalist's suitability for employment, or a person's suitability to work with and around minors on campus, and will not be used to discriminate against a person on the basis of race, color, religion/creed, sex/gender, age, sexual orientation, gender identity/expression, national origin, genetic information, marital/familial status, disability, military, veteran status, or any other status protected by law or policy.

The post-offer background checks conducted under this policy do not replace the reference checking expected to be completed and reviewed by hiring managers or through the faculty hiring processes as part of the candidate selection process prior to the extension of an offer of employment.

### **Definitions**

"Background Check" refers to the search of an individual's personal history performed by a third-party vendor, the type and scope of which is dependent on the position being sought but may include, but not be limited to: a national criminal database search (NCDS) and national sex offender search (NSOR) which includes the Massachusetts criminal offender record information (CORI) and sex offender registry Information (SORI), SSN with Alias search, County and/or Statewide Criminal and Federal District Court checks, a credit history, and educational verification.

### **Procedures and Enforcement**

#### **A. Conducting Background Checks**

Background Checks, where required, are conducted with the full knowledge and acceptance of the individual on which the search is being conducted except as otherwise permitted by law. Individuals subject to Background Checks will be required to sign the appropriate documents to acknowledge/authorize the collection of required information, including those obtained from the Massachusetts Criminal Offender Record Information (CORI) and those authorized by the Department of Criminal Justice Information System (DCJIS - iCORI) and Massachusetts General Law (MGL) c. 6 §. 172.

All individuals who are required to have a Background Check must complete this process prior to the start of their employment, or in the case of volunteers, students and independent contractors, their service activity. It is the responsibility of the supervisor to ensure that an individual (whether student, faculty, staff, independent contractor, or volunteer) who is required to have a Background Check in accordance with this policy does not engage in work/service activities until the Background Check has been completed.

All offers of employment at Clark are contingent upon the satisfactory completion of a thorough Background Check. Clark also reserves the right to conduct a Background Check any time after the individual begins work or service at the University. Any misrepresentations, falsifications, or material omissions in the information provided by the individual, whenever discovered, may result in disqualification from, or termination of employment or volunteer service or student status, with Clark.

#### **B. Consent to Conduct Background Checks and Confidentiality**

Finalists for all paid positions will be informed during the pre-employment process that any offer of employment is contingent upon completion of a background check with results acceptable under this policy (see below). Prior to conducting the background check, a signed, written consent will be obtained from the finalist through the new employee on-boarding process. Refusal to authorize the background check will make the finalist ineligible for employment.

The information obtained through background checks is confidential and will be shared only with individuals with an essential business need to know. Records of the background check will be maintained in the Office of Human Resources separately from the employee personnel files.

Generally, employment in the position should not begin until Clark has received and reviewed the results of the background check. Exceptions may be made at the hiring department's request with the approval of the Office of Human Resources or, in the case of faculty hiring, with the approval of the Provost, in consultation with the Office of Human Resources.

#### **C. Access to Background Checks**

All Background Checks are confidential and access to the information is limited to those individuals who have a "need to know." This may include, but not be limited to, hiring managers, the Office of Human Resources, and the Office of the Executive Vice President.

#### **D. Training**

An informed review of a Background Check that includes criminal records requires training. Accordingly, all personnel authorized to conduct Background Checks that include criminal history information and/or who are authorized to review criminal history information, will be familiar with this policy and the relevant training materials made

available by the Massachusetts Department of Criminal Justice Information Service (DCJIS).

#### **E. Use of Background Checks**

Background Checks used for employment purposes shall only be conducted for applicants who are otherwise qualified for the position for which they have applied. Background Checks are conducted after the individual accepts the offer of employment and, as stated above, all offers of employment at Clark are contingent upon the satisfactory completion of a Background Check. The nature of the screening and evaluation process depends upon the requirements, responsibilities, and activities of each position. Unless otherwise provided by law, a criminal record will not automatically disqualify an individual from employment or volunteer service. Rather, determinations of suitability based on Background Checks will be made consistent with this policy and any applicable law or regulations.

#### **F. Questioning a Subject About Their Criminal History**

In connection with any decision regarding employment or volunteer opportunities, the individual shall be provided with a copy of the Background Check report, whether obtained from the DCJIS or from any other source, prior to questioning the individual about it. The source(s) of the Background Check report are also to be disclosed to the individual.

#### **G. Determining Suitability**

If a determination is made, as provided above, that the Background Check belongs to the individual, and the individual does not dispute the accuracy contained in the report, then a determination of suitability for the position will be made. Factors considered in determining suitability may include, but not be limited to, the following:

- The relevance of the criminal offense to the nature of the employment or volunteer service being sought;
- The nature of the work to be performed;
- The length of time since the offense occurred;
- The age of the individual at the time of the offense;
- The seriousness and specific circumstances of the offense;
- The number of offenses;
- Whether the individual has pending charges;
- Any relevant evidence of rehabilitation or lack thereof; and
- Any other relevant information, including information submitted by the individual or requested by the hiring authority.
- The truthfulness and accuracy of information on the application and other material provided in support of the application.
- Whether hiring would pose an unreasonable risk to Clark or its community.

The Office of Human Resources will make these decisions in consultation with the appropriate Division Head, Department Head, Provost, and/or the Office of the Executive Vice President, as necessary.

In connection with any decision regarding employment or volunteer opportunities, the individual shall be provided with a copy of the Background Check prior to questioning him/her about the information in the report.

The Office of Human Resources will notify the individual of the decision and the basis for it in a timely manner.

#### **H. Adverse Employment Decisions Based on Background Checks**

If Clark is considering an adverse decision on the individual based on information contained in the Background Check report, the applicant must:

- Be notified of the potential adverse decision based on the criminal offender record information (if applicable)
- Be informed immediately of the source of the Background Check report; and
- Be provided a copy of:
  - Background Check report - to include the criminal offender record information (if applicable); and
  - Fair Credit Reporting Act - A Summary of Rights.

If the source of the information is the criminal report received from DCJIS through the third-party vendor, the applicant must also:

- Be informed immediately of the specific item from the Background Check report that may result in adverse action; and
- Be provided a copy of:
  - Clark's Background Check Policy; and
  - Information Concerning the Process for Correcting a Criminal Record.

#### **I. Appeals**

If an individual wishes to dispute and/or explain the information contained in the Background Check report, the individual must do so in writing. The written explanation, and any other documents the individual wishes to submit, must be received by the Office of Human Resources within fourteen (14) days of receipt of the above notice that Clark intends to make an adverse decision. The appeal submission should include a written explanation of why the individual should be reconsidered for their employment or service activity. The individual is not permitted to be employed or serve during this appeal process. Such information shall be reviewed by the Director of Human Resources in consultation with the appropriate Division Head, Department Head, Provost, and/or the

Office of the Executive Vice President, as necessary.

Questions regarding this policy should be directed to the Office of Human Resources at [HR@clarku.edu](mailto:HR@clarku.edu)

### **Related Policies and Regulations**

Minors on Campus Policy

### **History/Revision Information**

**Responsible Office/Division:** Office of Human Resources

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