



<b>Policy Title: Criminal Background Check Policy</b>	<b>Effective Date: 3/1/2000</b>
<b>Policy Number: HR-PO-1400</b>	<b>Date of Last Review: 1/3/2023</b>
<b>Oversight Department: Department of Human Resources</b>	<b>Next Review Date: 1/3/2026</b>

### 1. PURPOSE

The *Criminal Background Check Policy* for Radford University (University) is intended to promote a safe environment, protect the welfare of the University community, and safeguard University assets and information.

### 2. APPLICABILITY

This *Criminal Background Check Policy* applies to full- and part-time classified, administrative and professional faculty, teaching and research faculty, 1500-hour wage positions, and other designated positions.

### 3. DEFINITIONS

**Conviction:** The result of a trial or a legal proceeding that ends in a judgment or sentence that the person is guilty of a criminal violation.

**Crime:** The breach of a legal duty, punishable by a penal statute, whether federal, state, or local.

**Designated Positions:** Employment positions identified by University management that have:

- access to significant levels of cash or negotiable securities
- significant responsibility for the execution or approval of financial transactions
- privileged access to highly sensitive data or critical data processing systems
- unsupervised access to University, employee, or student property, including University residence halls with access to student rooms
- positions having responsibilities in fiscal areas, child care, safety, law enforcement, medical services, medical research, homeland security, and/or handling significant quantities of hazardous materials.

**Division Head:** The President, Provost, or applicable Vice President.

**Safety Sensitive Position:** A safety sensitive position is one designated by the University as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures. For these positions, a criminal history, including fingerprinting, must be obtained for the final candidate from the Federal Bureau of Investigation through the Department of State Police (Va. Code § 2.2-1201.1). In addition, some safety sensitive positions (e.g., bus

driver, policeman, security officer, direct patient care giver, etc.) may require the completion of a drug screen with satisfactory results.

**University Community:** For the purpose of this policy, all persons who are employees, students, contractors, volunteers, and visitors, including invited guests, of the University.

#### **4. POLICY**

- A. As of February 1, 2012, a criminal background check will be processed by Human Resources for all new and rehired employees, and employees who are promoted or who transfer into designated positions and upon whom a criminal background check has not previously been conducted. Employees rehired within six months of the date their prior employment with the University became inactive are not required to undergo a criminal background check if one had been previously completed that was appropriate for the position being sought.
- B. Applicants will be advised that a criminal background check is a condition of employment.
- C. As of March 13, 2017, employees hired, transferred, or promoted into positions designated as “safety sensitive” will require a fingerprint check (Virginia Code § 2.2-1201.1). Investigations for safety sensitive positions are conducted through the RU Police interface with the FBI’s database prior to the hire date (Va. Code § 2.2-1201.1). In addition, some safety sensitive positions (e.g., bus driver, policeman, security officer, direct patient care giver, etc.) may require the completion of a drug screen with satisfactory results.
- D. If an applicant or employee possesses an active security clearance issued by the US Government, proof of that active security clearance will be considered in lieu of conducting a new criminal background check.

#### **5. PROCEDURES**

Radford University will comply with the federal Fair Credit Reporting Act (FCRA) when conducting background checks.

##### **A. Communication of Policy**

- 1. The provisions of the *Criminal Background Check Policy* will be communicated to applicants using application materials provided to all applicants, departmental employment interviews, and offer letters. The provisions of this policy will be communicated to current employees by department heads, supervisors, and Human Resources.
- 2. Human Resources staff will be available to discuss the provisions and procedures of the policy with supervisors, employees, and applicants.

##### **B. Initiating the Criminal Background Check**

- 1. Upon receiving a conditional offer of employment, the selected candidate must immediately complete and send to Human Resources an [Applicant Authorization for Criminal Background Check](#) release form (see Appendix) granting permission for the University to conduct the criminal background check.
- 2. The University reserves the right to conduct criminal background checks on the widest scope available. Normally, criminal background checks will include a review of the candidate’s records to include a Virginia Criminal Records Search and the Sex Offender Registry. For candidates who have lived outside the Commonwealth of Virginia, the

background check will include county checks for all counties in which the candidate has lived over the past seven (7) years.

**C. Review Process**

1. Human Resources will initially review the criminal background records to determine job relatedness of any convictions and will contact the department with the results if the check reveals a job-related criminal background record. If the candidate has convictions that are job-related, the University may deny employment. The determination to deny employment will be made by Human Resources in consultation with the hiring authority, Assistant Vice President of Human Resources, and Chief of Police. A decision to hire an applicant with a job-related conviction requires the approval of the appropriate division head.
2. In making the determination of job-relatedness, Human Resources in consultation with the hiring authority, Assistant Vice President of Human Resources, and Chief of Police will consider how recently the conviction occurred; the frequency and severity of the crime(s); and the age of the candidate at the time the crime was committed. The safety and security of the University community will be the foremost consideration.
3. If a decision is tentatively made not to hire an applicant (or to withdraw an offer) based on the results of the criminal background record, Human Resources will provide the appropriate notifications to the applicant. The applicant will have three working days from the receipt of the notification to challenge the findings and an additional seven working days to successfully resolve it. If the findings are upheld, Human Resources will notify the individual of the non-selection.
4. Any information related to the criminal background history will be maintained in the strictest confidence possible. Only essential personnel involved in the hiring process and the candidates involved in the assessment of job-relatedness may be informed of information on the criminal background check of an employee on a need-to-know basis. Those who violate the terms of this policy, including violations of confidentiality, are subject to disciplinary action including termination.

**D. Preliminary Offers**

Criminal background checks should be completed prior to an employee's employment begin date. Exceptions to this must have the joint approval of the appropriate division head and the Assistant Vice President of Human Resources. If an exception is made, the offer letter or employment contract will explicitly state that, *"This offer is contingent upon the satisfactory completion of a criminal background check."*

**E. Convictions of Current Employees**

1. As a condition of continued employment, all employees, whether or not their positions were originally subject to a criminal background check, must inform their supervisor or Human Resources within five (5) business days of any conviction of a crime excluding traffic violations. However, an employee who is a Commercial Driver's License (CDL) holder must report traffic violations pursuant to licensing regulations.
2. The University reserves the right to conduct a criminal background check on any employee reporting a current conviction. Information discovered that leads to the

conclusion that the safety and security of the University community may be at risk will be reviewed and the employee's continued employment with the University may be affected.

## **6. EXCLUSIONS**

The Radford University Police Department (RUPD) will conduct criminal background checks based on RUPD policies and procedures for their own new or rehired employees including employees who transfer into the RUPD from other University departments.

## **7. APPENDICES**

**Appendix**      [Applicant Authorization for Criminal Background Check](#)

## **8. REFERENCES**

[Code of Virginia, § 2.2-1201.1](#), "Criminal background checks for certain positions."

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

[Federal Trade Commission, Fair Credit Reporting Act \(FCRA\)](#)

## **9. INTERPRETATION**

The authority to interpret this policy rests with the President of the University and is generally delegated to the Vice President for Finance and Administration & Chief Financial Officer.

## **10. APPROVAL AND REVISIONS**

The existing *Criminal Conviction Investigation Policy* was revised and incorporated into the new University policy template in November 2011. The *Criminal Background Check Policy* and Procedure were reviewed and approved by the President's Cabinet on January 19, 2012. President Kyle signed the policy on January 20, 2012.

Effective December 15, 2017, the *Criminal Background Check Policy* was reviewed by the oversight department and the Office of Policy Compliance. The policy was revised to incorporate changes in Code of Virginia § 2.2-1201.1. Additionally, the policy was updated to the revised University policy template with other minor revisions. These minor revisions did not alter the scope or application of the policy.

Effective January 3, 2023, the *Criminal Background Check Policy* was revised to incorporate changes driven by the Fair Credit Reporting Act with other minor revisions to include a process for notifying applicants of background results.

**For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.**