

Responsible Office

Human Resources

Overall Process—Checklist

- Department or OHR is informed of an individual's conviction. Information about the criminal conviction could result from:
 - Self-disclosure by individual to department or OHR;
 - OHR or supervisor/manager obtained information about conviction from an independent source;
 - Anonymous report submitted to department, OHR, or other source;
 - Public record – newspapers, etc.
- Department notifies and refers conviction information to the director, human resources, who determines the extent to which the manager/supervisor will be involved.
- The director, human resources assesses the case to determine if a background check is necessary. Background check coordinator (BCC) obtains release from individual and processes request for a background check.
- Background check coordinator provides results to the director, human resources.
- A meeting is scheduled with the individual, as necessary.
- The director, human resources, and manager/supervisor, if appropriate, meet with the individual to give her/him the opportunity to respond to the record. Based on the record and individual response, follow assessment steps to determine appropriate action.
- The director, human resources, in consultation with employing department, determines appropriate action, as necessary. Action may vary depending upon the fact pattern, nature of the conviction, impact, etc.
- College's action is implemented and communicated to individual.

Internal Review Process for the Evaluation of Self-disclosed Criminal Convictions

I. Assessment

- A. Collaborative efforts—On notification of a self-disclosed criminal conviction, the director, human resources works collaboratively with the employing department's senior administrator and/or the employee's manager/supervisor.
- B. Review criminal conviction—Information about the criminal conviction is obtained through a background check obtained by OHR unless directly provided by the individual. The individual must sign a release to allow OHR to do a background check. The seriousness of the offense is assessed by the director, human resources in coordination with the department, as necessary.
- C. Review individual's work/volunteer history—Title, unit name, hours of work, length of service, performance if appropriate and relevant, corrective action history, supervisor, whether there is a history of complaints against the individual, and the nature of the allegations.
- D. Review individual's position—Determine whether the functions she/he performs involve: work with vulnerable populations (e.g., students, patients, children, etc.); access to technology (cases of pedophilia, child pornography, cyber stalking, etc.); residence halls; cash; controlled substances; operation of college vehicles; etc.
- E. Assess individual's duties against nature of crime—Determine how the extent of the crime could affect the individual's fitness or ability to continue to perform her/his duties and responsibilities. This is a question of "nexus" between the crime and the functions performed by the individual.

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- F. Assess risk—Assess COTC’s legitimate interest in protecting and ensuring the safety of students, faculty, staff, or other vulnerable populations when measured against the information above. The issue is whether retaining the individual in her/his position poses an unreasonable risk to the safety and welfare of members of the college community.

II. Decision-making

- A. Case by case determination—Cases are assessed based on their unique facts.
- B. Considerations include—All information outlined above, whether the risk can be minimized, whether there was falsification, or whether individual was untruthful or hindered the assessment of the case.
- C. Continued involvement will be determined by:
 - 1. The viability of the individual remaining at the current position or transferring to a different one. This allows for a determination about the individual’s access to potential “victims,” degree of supervision, amount of access to technology such as the internet, etc. If the individual remains in the position, and an agreement is necessary, the Offices of Human Resources and the department collaborate to develop an “agreement” to be issued to the individual.
 - 2. No viability to remain in the role because the risk cannot be minimized. These may include individuals convicted of crimes involving rape, theft, murder, assault, etc. Some positions with an unacceptable degree of access to potential “victims” may include roles such as: security officers, hospital employees, social workers, mental health employees, tutors, youth camp counselors, etc. This is not an exhaustive list. In these instances, removal or termination may be appropriate.

III. Implementation

- A. If the individual retains her/his position, a letter of agreement is issued to the individual delineating the continued terms and conditions of involvement, if necessary. Depending upon the nature of the position, monitoring may be necessary.
- B. If the individual is removed or terminated, a letter of termination will be issued, or the appropriate college process will be followed. The letter will contain information about the individual's ineligibility for continuing involvement with the college.

IV. Records retention

- A. The director, human resources will review the background check data. If it is determined that the individual will continue to be involved with the college, OHR will not maintain the background documents in its central files. The Self-Disclosure of Criminal Convictions form and background check documents will be destroyed in accordance with the [General Records Retention Schedule](#).
- B. If an agreement is developed as part of the individual’s continued employment/volunteering, this document and the Self- Disclosure of Criminal Convictions form will be housed by OHR. If a public records request is filed, the unit must forward the request to the Office of Human Resources for response.
- C. In accordance with the General Records Retention Schedule, if an employee is terminated, the self-disclosure form and the background check documents are maintained as part of the employee’s personnel file.