

USM Bylaws, Policies and Procedures of the Board of Regents

VII – 1.15 - POLICY ON CRIMINAL BACKGROUND CHECKS FOR FACULTY AND STAFF EMPLOYEES

(Approved by the Board of Regents, April 15, 2016)

I. PURPOSE AND SCOPE

- A. Purpose: To establish minimum standards for the appropriate acquisition and use of criminal background records in order to support safe and secure campus environments.
- B. Scope: Applies to all regular and contract faculty and regular and contingent staff, student employees (including students in federal and other work study programs) and applicants for employment.

II. DEFINITIONS

- A. Commercial Criminal Background Check: A criminal background check completed by a commercial entity through a review of publicly available law enforcement, court and other records, including international records as appropriate. A commercial criminal background check

III. ACQUISITION OF CRIMINAL BACKGROUND RECORDS

A. Mandatory Criminal Background Checks. Under state and federal law, institutions are required to obtain and review pre-employment CJIS criminal background checks for their employees under the following circumstances:

1. Certain Programs Involving Minors. Institutions must require pre-employment CJIS Record History checks of employees of certain programs involving minors operated by the institutions as required by Md. Code Ann., Family Law, Section 56-1, including but not limited to:

- a. Child care centers;
- b. Public primary and secondary school programs;
- c. Recreation centers or programs primarily serving minors; and
- d. Day or residential camps, as defined in COMAR 10, Subtitle 16, primarily serving minors

2. Other Activities Requiring Background Checks for Institution Employees. In addition to the programs described in Section III.A. above, institutions are required to obtain and review pre-employment CJIS Record History checks of certain individuals employed in the following circumstances:

- a. Programs Serving Adult Dependent Populations. Under federal and state law (42 U.S.C.A. Section 12645(g) and Md. Code Ann., Health and General, Section 19-02), a CJIS Record History check is required for employees who work in adult dependent care programs. Examples include programs serving the elderly and dependent adults and adult dependent individuals with disabilities.
- b. Employment in the Transportation of Hazardous Materials. CJIS Record History checks are required for all employees who have a commercial driver's license with a State issued hazardous materials endorsement, consistent with federal and state law, including 49 U.S.C.A. Section 5103a and Md. Code Ann., Transportation, Section 16-15.

B. Permissive Criminal Background Checks

1. In addition to the circumstances under which an institution must obtain and review a criminal background check described in section III.A. above, institutions also have the discretion to require background checks of other employees, applicants and institution volunteers.
2. Each institution shall have standards and processes for guiding the acquisition of permissive criminal background checks.
3. An institution may elect to obtain criminal background checks with respect to any position. Examples include:
 - a.

- b. Institution volunteers who have access to minors in institution activities and programs and
- c. Employees with:
 - i. Financial responsibilities, including access to cash and authority to expend institution resources;

