

POLICY ON EMPLOYEE CRIMINAL BACKGROUND CHECKS

Date: 10/16/2013

Supersedes: None

I. Purpose

To establish guidelines and procedures for criminal background checks on finalist applicants and current employees being offered promotions or transfers to provide a safer campus environment for faculty, students, employees, patients and visitors.

II. Scope

This policy applies to finalist applicants being considered for specific positions designated as security sensitive and for those employees who are transferred or promoted into positions that are security sensitive. Security sensitive positions are those at executive and senior administrative and academic levels, faculty and staff positions that have responsibility for providing services to students and patients, those positions involved in the financial/budget functions of the College and as otherwise identified herein. Security sensitive positions also include, but are not limited to, employees in information technology, the finance department, including controller's office, accounting, budget, payroll, grants accounting, bursar, human resources, purchasing, facilities management, security, receiving, environmental health and safety, student housing, student services, department administrators, and other positions deemed to be security sensitive.

III. Policy

It is the policy of NYMC to conduct a criminal background check on finalist candidates recommended for hire in security sensitive positions, either prior to the extension of an offer of employment or as part of employment offer, which is contingent upon a successful criminal background check. Individuals may not commence employment until the background check process has been completed.

It is also the policy to conduct a background check on a current employee receiving a transfer or promotion to a security sensitive position. A current employee cannot begin work in a security sensitive position prior to the completion of the background check process.

If an individual has a criminal conviction or pending charge, the Associate Vice President of Human Resources, in consultation with the Vice President and General Counsel, will determine if there is a direct relationship between the offense and the specific employment position involved or if the grant of employment would involve an unreasonable risk to property or the safety or welfare of specific individuals or the general public.

In making such decision, the College will take the following factors into consideration:

- Applicable federal/state/local laws relating to the permissible use of arrest and conviction information.
- The specific duties and responsibilities of the position sought by the candidate.
- The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties and responsibilities.
- The time which has elapsed since the occurrence of the criminal offense or offenses.
- The age of the person at the time of occurrence of the criminal offense or offenses.
- The seriousness of the offense or offenses committed.
- Any information produced by the person, or produced on his or her behalf, with respect to his or her rehabilitation and good conduct.
- The legitimate interest of the College in protecting property, and the safety and welfare of faculty, students, employees, patients, visitors and the general public.

A criminal conviction will not necessarily disqualify the applicant from consideration. However, if an applicant fails to disclose information fully and truthfully, then the College will have the right to deny or terminate employment.

Information collected in connection with the background check will be kept confidential and maintained in the Department of Human Resources in an area separate from the official personnel files.

IV. Procedure

- A. All finalist applicants for employment and current employees being considered for promotion or transfer to security sensitive positions shall be required to have a criminal background check.
- B. All finalist applicants for employment and current employees being considered for promotion or transfer to a security sensitive position will provide a signed consent to receive criminal background check by affixing their signature of authorization on the New York Medical College employment application and on an additional form which is part of the background check process.
- C. All positions designated to be security sensitive shall be so identified in the job description and the job posting and advertisement for the position.
- D. The Department of Human Resources shall be responsible for conducting the criminal background check through the approved contracted vendor.
- E. Criminal history information will be used for the purpose of evaluating finalist applicants for employment or transfer/promotion into security sensitive positions

and shall not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age or genetic information.

- F. This policy does not automatically exclude from consideration for employment all individuals with criminal convictions.
- G. Criminal history records will remain confidential and not be made part of the applicant's file or the employee's personnel file, or be communicated only to persons with a legitimate "need to know".
- H. Offers of employment to finalist applicants applying for security sensitive positions will be made on a contingent basis pending satisfactory criminal background checks.

V. Effective Date

This policy shall take effect as of the date signed below.

VI. Policy Responsibilities

A. Human Resources

- 1. Work with the departments to identify any positions that are designated as security sensitive and to identify that in the job description, job posting and advertisements.
- 2. Obtain the signed authorization from the applicant or current employee to perform a criminal background check as a condition of employment or transfer/promotion or reclassification of position.
- 3. Review the criminal background check.
- 4. If there is a criminal conviction, the Associate Vice President of Human Resources, in consultation with the Vice President and General Counsel, will make a determination if the individual should be hired, transferred/promoted or retained in the reclassified position in accordance with this policy.
- 5. Report the results of the review of the criminal background check to the respective department, and, in the case of employed faculty, report the results of the review to the Dean of the school involved.
- 6. In the event a current employee receives a criminal conviction after the initial background check has been completed, it is the responsibility of the employee to notify Human Resources no later than thirty (30) days after the date of such criminal conviction. The Associate Vice President of

Human Resources, in consultation with the Vice President and General Counsel, will make a determination as to continued employment in accordance with this policy. Employees who fail to notify Human Resources of a criminal conviction during their employment may be subject to termination for cause.

B. Employees

Notify Human Resources if he or she receives a criminal conviction during the course of employment or subsequent to an initial criminal background check.

C. Office of the General Counsel

Consult with Human Resources in determining if criminal convictions constitute grounds for declining an offer of employment, promotion or transfer.

D. Department of Position Involved

1. Work with Human Resources to identify any positions that are designated as security sensitive and identify that in the job description, job postings and advertisements.
2. Pay for the cost of the criminal background check.
3. Observe and comply with the requirements of this policy.

VII. Policy Management

Responsible Executive: Senior Vice President and Chief Financial Officer

Responsible Officer: Associate Vice President, Human Resources

Responsible Department: Human Resources

Approved by:

Edward C. Halperin, M.D., M.A.
Edward C. Halperin, M.D., M.A.
Chancellor for Health Affairs and Chief Executive Officer

10/25/15
Date