

# Saint Joseph's College Policy Guidebook

## Human Resources

Section Name: Starting Your Career with SJC

Effective Date: 7/1/2021

**SUBJECT:** Background Checks

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**Purpose:**

Saint Joseph's College is committed to hiring and retaining the most qualified Faculty and Staff to perform their functions while ensuring the safety and minimizing the risk of violence and other criminal conduct towards members of the community and to comply with applicable laws. Background checks are conducted for all new hires and periodically, as deemed a business necessity, for current faculty and staff based on position.

**Applicable to:**

All Faculty, Staff, Students

**Policy:**

Background checks refer to the totality of activities associated with determining a candidate's suitability for a position and may include reference checks, convictions checks, education verification, motor vehicle checks, employment verification, credit reports, sex offender, and civil searches.

Type	Faculty	Staff
References	Yes	Yes
Conviction	Yes	Yes
Education Verification	Yes	Yes, if applicable
Sexual Offender	Yes	Yes
Employment Verification	Yes	Yes
Motor Vehicle	Yes, if applicable	Yes, if applicable
Credit	No	Yes, Officers and Finance Office positions if applicable
Civil Searches	No	Yes, Officers if applicable

Saint Joseph's College recognizes that its interests in obtaining information about employees' backgrounds must be balanced with the need to protect the privacy of employees and prospective employees. Information gathered in the convictions check

process is public record and is provided by a third party specializing in obtaining this data, except for the sex offender registry check (see below). The College complies with the Fair Credit Reporting Act and state and federal laws, recognizes an individual's right to privacy and prohibits College employees from seeking, using, or disclosing information except within the scope of their assigned duties.

Information obtained from the reference and background check process will only be used as part of the employment process and kept strictly confidential. Criminal convictions will not be an automatic barrier to employment and will be judged on its own merits with respect to time, circumstances, seriousness, and the extent to which it is related to the job.

Job postings will state that a conviction check is required as a condition of employment. The conviction check, and others as deemed necessary, will be initiated after a contingent offer is extended and accepted. A new employee should not begin work until the Human Resources Department has received and reviewed the results of the checks.

### **Checks on Current Employees**

Should a current employee receive a conviction, the employee is obligated to self report and disclose the conviction to the Human Resources Department within five (5) days of the conviction date. Doing so allows the College to determine if the conviction may or may not impact the ability to complete the essential functions of the employee's position.

Current employees may be required to participate in additional background checks, i.e. conviction, motor vehicle record, etc., if there is evidence that they may have falsified their employment application when initially hired or have subsequently been convicted of law violations that may be job related.

The College also reserves the right to conduct random, ongoing background checks on current employees. Reasons for conducting such background checks include current employees being hired into new positions that require new responsibilities, i.e. driving an SJC fleet vehicle would require a motor vehicle records check and catch up background checks as policies change. In addition, the increased tenure of employees can allow for background checks to alert the College of any potential employment matters that may risk the College's credibility and reputation.

### **Checks on Student Employees**

Student employees will only be subject to a motor vehicle records check should their position require driving a fleet vehicle. They will not undergo any additional background checks while they remain in a student status at the College.

Similar to non-student positions, students and student employees may not drive fleet

vehicles until the results of the motor vehicle records check is returned and reviewed and the student completes fleet vehicle driver training provided by the Campus Safety Department.

**Access to Records**

All criminal background records 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 and the Human Resources Department. Only authorized personnel at Saint Joseph's College will have access to this information.

### **Procedure for Background Checks**

The FCRA requires the College to disclose to the candidate and current employees that it intends to obtain a consumer report from a third party agency for employment purposes. Candidates will be informed during the interview process that employment will be contingent on successful completion of the background checks (post offer and pre-employment). In the rare instances when a candidate begins employment before the background checks are complete, the same procedure applies in that employment is contingent upon successfully completing the background checks.

When the College makes a conditional offer of employment to a candidate and prior to conducting a background check through a consumer reporting agency, the individual will be provided with a consumer report disclosure and authorization form and a copy of A Summary of Your Rights under the Fair Credit Reporting Act. Prior to conducting background checks, a signed, written consent form will be obtained from the candidate or employee. Candidates or employees who refuse to consent to any form of required background check, refuse to provide information necessary to conduct a background check, or provide false or misleading information in regard to the background check, may be prevented from consideration for the position.

Human Resources will initiate all necessary background checks.

### **Procedure for Reference Checks**

Hiring managers are responsible to complete reference checks on finalist candidates.

- Hiring Managers will contact a minimum of three (3) professional references for the finalist of their open position. Professional references include: supervisor or previous supervisor, colleague, professor, advisor. The ideal would be at least two (2) supervisor references be contacted if available.
- Once references are complete, the hiring manager will notify Human Resources to finish the recruitment process.
- Reference information is documented by the hiring manager and sent to Human Resources. The references shall be kept in the candidate's employment file.

### **Pre-Adverse and Adverse Action**

If the background check reveals information that raises a question about the suitability of the candidate or employee for employment at Saint Joseph's College and the College is inclined to take an adverse action (such as withdrawal of the conditional offer of employment or termination of employment) based on such information, Saint Joseph's College will provide the candidate or employee with a Pre-Adverse Action Notice indicating that adverse action may be taken, along with a complete copy of the report and a copy of A Summary of Your Rights under the Fair Credit Reporting Act. The College will also inform the individual of the specific part of the background check report that requires further follow-up/research and provide the individual with an opportunity to correct any errors or to dispute the accuracy of the information obtained in the background check (including criminal records) before any adverse action is taken.

A dispute will not necessarily impact the hiring decision. A candidate or employee disputing the accuracy of the information will then have five (5) business days to conclusively demonstrate the inaccuracy of the information. The College's Human Resources Department may grant extensions on a case-by-case basis. If after five (5) business days the candidate or employee does not respond, or fails to adequately dispute the background check results, the decision will be made based, in whole or in part, on the information obtained in the background check.

The College will use the Equal Employment Opportunity Commission (EEOC) guidance set forth as following factors for employers to consider in reviewing criminal background check records: (a) the nature and gravity of the offense or conduct; (b) the time that has passed since the offense, conduct and/or completion of the sentence; and (c) the nature of the job held or sought. A criminal conviction matrix, which outlines types of crimes, will be used consistently as a tool on a case by case basis. The EEOC provides the following definitions for purposes of the criminal conviction matrix:

- The term "Almost Always Disqualified" means that, if an individual has a conviction or charge pending related to such crime, he or she will almost always be disqualified from employment with the College, regardless of when the offense occurred.
- The term "Likely Disqualified" means the corresponding conviction or pending charge will likely result in disqualification from employment with the College, if the offense or completion of any resulting sentence (whichever was later) occurred within the last ten (10) years.
- The term "Discretionary" means that the corresponding conviction or pending charge may result in disqualification from employment with the College, as determined within the sole discretion of the College, if the offense or completion of any resulting sentence (whichever was later) occurred within the last ten (10) years.

For the purpose of a conviction check, the definition of a conviction is the result of a trial that ends in judgment or sentence that the person is guilty as charged.

If the decision not to hire is based, in whole or in part, on information obtained in the background check, a Final Adverse Action Notice will be mailed by Human Resources via certified mail to the candidate explaining the reason for not hiring, along with an additional copy of the background report, a written description of the employee or candidate's rights under the FCRA, the contact information of the consumer reporting agency, a statement that the agency did not take the adverse action and cannot explain why it was made, and a copy of A Summary of Your Rights under the Fair Credit Reporting Act.

### **Sex Offender Registry Checks**

The College conducts a sex offender registry check by checking sex offender registration information maintained by the Maine Sex Offender Registry and other state and federal sex offender registries. The College will review the information available on such registries to determine whether the offender is the specific candidate or current employee. The College will take the reported offenses into consideration as additional factors in interpreting sex offender search results.