

Villanova University

Background Screening Policy

A. Pre-employment Background Checks

Villanova University is committed to protecting the security and safety of students, faculty, staff and visitors, and safeguarding the assets and resources of the University. In support of this commitment, Pre-employment Background Checks have been an important part of the employment selection process and are required prior to hiring all faculty, staff, and student employees regardless of the duration of employment. These Pre-employment Background Checks have included criminal history screening, verification of social security number, prior work verification, verification of academic credentials, credit history, motor vehicle history, drug testing, and other testing deemed relevant based on the nature and duties of the position(s) sought (collectively the “Pre-employment Background Checks”). These Pre-employment Background Checks will continue and will be conducted by a qualified vendor selected and approved by the University to conduct such inquiries.

Pre-employment Background Checks are conducted with the full knowledge and acquiescence of the individual. Individuals or employees are asked to complete a Disclosure and Authorization form in accordance with the Fair Credit Reporting Act authorizing the University to conduct Preemployment Background Checks and the release of information by current and former employers, educational institutions and other organizations. A refusal to sign a release form eliminates the individual from further consideration for employment. The University provides written notice of the Pre-employment Background Check requirement on the applicant job posting home page and on the Employment page of the Human Resources website, advising that *“All offers of employment are based upon satisfactory completion of background screening checks.”* When reviewing the background check results, an individual assessment is made with consideration given to how the results of the check relate to the position sought.

Negative Findings

Human Resources will notify the individual in writing if negative information was revealed during the Pre-employment Background Check process which may impact employment and will provide a copy of the supporting report to the individual along with a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The individual or employee will be provided no less than five days to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation.

A final employment decision shall not be made until the individual’s new information has been considered or at such time that the individual or employee fails to respond as required.

If, after considering the factors identified in the Adjudication section of this Policy and any individual or employee response to the results, it is determined that the information revealed results in an adverse employment decision, a second written notification will be sent to the individual or employee. This notice shall include the following:

- The name, address, and phone number of the vendor Consumer Report Agency (CRA) that supplied the report;
- A statement that the CRA supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- A notice of the individual's right to dispute the accuracy or completeness of any information the CRA furnished, and his or her right to an additional free consumer report from the CRA upon request within 60 days and to dispute with the CRA, the accuracy or completeness of any information in a consumer report furnished by the CRA.

Conditional Employment Offers

Any offers made before the Pre-employment Background Checks have been completed must be made conditional upon satisfactory completion of the Pre-employment Background Checks. Employment may begin prior to completion of the background checks only as a conditional offer of employment and after the hiring manager establishes a compelling need to Human Resources. Conditional offers shall be withdrawn if the results of the background checks are determined to disqualify the individual for the position (regardless of whether conditional employment has begun).

Candidates who have not completed the Act 153 background checks (as described below) by the first day of employment may be allowed to start work on a provisional basis if the following criteria are met:

- All three background checks have been submitted to the appropriate governmental agencies; and
- The candidate signs a Disclosure Statement and Application for Provisional Employment.

The University reserves the right to decline to hire an individual or to discipline or terminate the employment of an employee who has provided false, misleading, erroneous or deceptive information verbally or on an application, resume, or other written materials, or who has omitted material information during the hiring or background check process.

B. Act 153 Background Checks

The Commonwealth of Pennsylvania, with the objective to protect minors, enacted Act 153 of the Pennsylvania Child Protective Services Law (CPSL) in 2014. In compliance with this Act, Villanova University requires that employees¹ and volunteers² who have direct contact with minors, as defined by law, undergo three criminal background checks. In addition, contractors, subcontractors and facility users, and/or individuals having “direct contact” with Minors will be required to complete background checks prior to their presence on campus for the project, program or event in which they are involved.

¹ For employees, Direct Contact is defined as the care, supervision, guidance or control of children or regular and repeated contact that is integral to a person’s employment.

² For volunteers, Direct Contact is defined as the care, supervision, guidance or control of children and regular and repeated contact that is integral to a person’s volunteer responsibilities.

These background check requirements went into effect on January 1, 2015 for new employees and the University has been completing the background checks for all faculty and staff hired on or after that date. The required background checks are:

- Report of criminal history from the PA State Police;
- Child Abuse Clearance from the Pennsylvania Department of Human Services; and
- Fingerprint-based Federal criminal history submitted to the FBI.

Villanova University has also elected to complete these background checks on all staff hired prior to January 1, 2015.

In addition, all new graduate assistants and all new and existing resident assistants are required to complete the three background checks. For human subjects research involving minors, in addition to prior review and approval by the Villanova University Institutional Review Board, all investigators and all personnel involved in the research project who will have direct contact with minors or access to identifiable information regarding minors are required to complete the three background checks.

Act 153 Background Checks must also be completed by individuals who participate in various Programs that are sponsored by the University or take place on the University campus. Per the University's Minors in Villanova University Programs Policy, background checks must be in place for the Program Director and, depending on the nature of the Program, all other employees and volunteers before the start date of the Program. For more information, the complete Minors in Villanova University Programs Policy can be accessed at:

<http://www1.villanova.edu/villanova/president/uco/minors.html>

The process by which the University will evaluate findings in the background checks of students and volunteers who wish to participate in programs involving minors is described in the Section entitled Adjudication below.

Expiration and Continued Employment

Act 153 Background Checks are valid for sixty (60) months from the date of issuance. As a condition of continued employment, those faculty and staff that have been determined to have Direct Contact with minors shall contact Human Resources at least three (3) months prior to expiration in order to initiate the renewal process. Those faculty and staff with Direct Contact with minors who fail to maintain current Act 153 clearances may be subject to adverse action up to and including suspension while the Act 153 clearances are obtained and/or separation from employment.

Confidentiality

All information obtained through the background check process, including criminal history, is confidential and access to such information is limited to those individuals who have a need to know. To ensure confidentiality of all employee background information obtained, the Human Resources department coordinates the background investigation process and the results of the background investigation are retained confidentially by Human Resources.

Adjudication

Unless otherwise provided by law, having a criminal conviction does not necessarily preclude employment. The nature of the offense and its relevance to the individual's suitability for the particular position, in particular, whether the individual's employment by the University poses an unacceptable risk, is considered on a case-by-case basis. The core review committee that will evaluate the individual's suitability for the position are the Associate Vice President for Human Resources (or designee) and an attorney from the Office of the Vice President and General Counsel. Depending upon the type of review that is to take place, these two individuals will be joined by a designated representative in order to evaluate the information and make a final determination:

- In matters involving faculty and graduate assistants, the Provost (or designee);
- In matters involving staff, including student workers, the Associate Vice President for Human Resources shall appoint a second designee;
- In matters involving students in their capacity as volunteers and all volunteers, the Vice President for Student Life (or designee) and the University Compliance Officer.

This Committee shall evaluate the individual's suitability for the position and make the final employment or placement determination, carefully considering the potential impact of the conviction on the safety and security of the campus community and the security of University assets.

Factors considered in determining suitability may include, but are not be limited to the following:

- The nature and gravity of the offense or conduct
- The relevance of the crime(s) to the responsibilities of the position sought or held
- The time that has passed since the offense and/or completion of the sentence
- The age of the individual at the time of the offense
- The seriousness and specific circumstances of the offense
- Whether the individual has pending charges
- Evidence of the individual's rehabilitation efforts
- The truthfulness and accuracy of information on the individual's application for employment and other material provided in support of the individual's employment or, in the case of volunteers, any application or materials submitted in support of their service.

If a criminal conviction is reported and/or an indicated or founded report is made under the Child Protective Services Law, Human Resources will closely compare the report provided with the information on the Disclosure and Authorization Form, employment application and any other identifying information provided by the individual, to ensure the record relates to the applicant, employee, volunteer, contractor and/or subcontractor.

The Act 153 background checks are not subject to the Fair Credit Reporting Act provisions. However, the University will notify the individual if negative information was revealed during the background check process and will provide the individual an opportunity to dispute the accuracy of the results and/or provide other relevant information, such as the factors listed above.

Although generally convictions do not automatically preclude initial or continued employment, there are certain convictions covered by the Child Protective Services Law (CPSL), 23 Pa. C.S.A. Section 6344(c), which prohibit an individual's employment in public and private schools, including universities, for those individuals having direct contact with minors, as defined by the law (See Appendix A for the statutory prohibitions).

Reconsideration for Faculty, Staff and Student Workers

If, after an individualized assessment of the information, a determination to terminate the employment/participation of a current staff member, a faculty member, or a student worker is made, the individual may request reconsideration by a Committee comprised of the Executive Vice President (or designee), the Vice President and General Counsel and either the Associate Vice President for Human Resources (in cases involving staff or student-workers), or the Provost, or designee (in cases involving faculty and graduate assistants). No member of the Committee appointed to review the appeal shall be the same person who adjudicated the initial determination, nor shall the individual appointed supervise or be directly involved in the program of the individual requesting reconsideration. The Committee's decision shall be final. There shall be no requests for reconsideration of pre-employment determinations, or when termination results from the failure to disclose a criminal conviction or providing false, misleading or incomplete information to the University. Also no requests for reconsideration shall be provided in instances involving volunteers, including students serving in a volunteer capacity.

Special Considerations for Tenured Faculty and Staff Covered by a Collective Bargaining Agreement

If, after an individualized assessment of the information, a determination to terminate the employment of a tenured faculty member is made for an offense which does not prohibit employment, as set forth in Appendix A, the tenured faculty member may appeal this determination pursuant to the provisions of the faculty member's employment agreement. For employees subject to a Collective Bargaining Agreement, the right to appeal a determination to terminate employment, for an offense which does not prohibit employment, shall be governed by the applicable Collective Bargaining Agreement.

Costs

The costs associated with background checks for full and part time staff, faculty, and student workers will be borne by Human Resources; costs for all others, including temporary employees and staffing for special summer programs are the responsibility of the hiring unit. Volunteers who require Act 153 background checks are expected to obtain the required clearances on their own and submit copies. Villanova University student volunteers are eligible for a one time reimbursement for the cost of their FBI fingerprint clearance.

Self-Disclosure

Pursuant to Act 153, all current employees are required to self-disclose to Human Resources within three days (72 hours), if they are charged with a felony, are arrested for, or convicted of an offense that is identified in Appendix A, or are named as a perpetrator in a founded or indicated report on the Statewide Database by the Pennsylvania Department of Human Services. Employees failing to self-disclose are subject to disciplinary action, up to and including termination. Supervisors notified of an arrest, conviction or listing on the Statewide Database have an obligation to report the information to the Human Resources Department. Supervisors failing to report the information are subject to disciplinary action, up to and including termination.

All employees responsible for driving in conjunction with their job, as demonstrated in their position description are required to self-disclose the suspension or revocation of a driver's license within three business days (72 hours) of the revocation to the Insurance and Risk Management Department. Supervisors notified of the suspension or revocation of a driver's license have an obligation to report the information to the Insurance and Risk Management Department. Supervisors failing to report the information may be subject to disciplinary action, up to and including termination.

C. Export Controls Restricted Parties Screening (RPS)

The U.S. export control laws provide that U.S. persons and groups must not conduct business with any person or group on a government-issued restricted, blocked, or denied party list. The University works to ensure that its transactions related to its research, education, and service endeavors are compliant with the federal export control laws and regulations. An important aspect of export compliance is to refrain from engaging in business relationships with a person or organization that has been identified as a restricted party.

Various departments at the University are responsible for conducting RPS to ensure that the University is compliant with U.S. export control laws and other federal laws and regulations. Upon receiving a positive result the individual/department conducting the RPS shall forward the results to the RPS Review Committee described in the RPS Policy for review. The RPS Review Committee shall review the results in accordance with the procedure set forth in the RPS Policy.

Because of the special trust or responsibility associated with their position, specific University employees will be required to undergo restricted party screening by the University. The positions subject to RPS are identified at the time of hire. In addition, current employees who will undergo RPS include:

- All employees who are engaged in research or other projects that may have export controls considerations.
- All employees who are paid through federal or state funding, or any other agency requiring RPS in connection with their institutional responsibilities.

- All researchers and any individuals working on a project which is subject to a Technology Control Plan
- All employees who have control over, or access to the institution's systems or data that are subject to export controls.

D. Volunteers

RPS will also be conducted on all volunteers who assist employees in connection with any of the activities listed above in section C.

E. International Travel, Research and Service Activities

In addition, since the University is engaged in numerous international travel, service and research activities, the University reserves the right to conduct RPS as may be appropriate with all such activities.

Appendix A
23 P.S. 6344(c) Statutory Prohibitions

- Named as a perpetrator of a founded report of child abuse as defined by Pennsylvania law;
- Convicted of a felony offense under Act 64-1972 (relating to the controlled substance, drug device and cosmetic act) committed within the past 5 years; or
- Convicted of any of the following crimes or the attempt, solicitation or conspiracy to commit any of the following crimes under Pennsylvania law or equivalent crimes in another state or under Federal law:
 - Chapter 25 (relating to criminal homicide)
 - Section 2702 (relating to aggravated assault)
 - Section 2709.1 (relating to stalking)
 - Section 2901 (relating to kidnapping)
 - Section 2902 (relating to unlawful restraint)
 - Section 3121 (relating to rape)
 - Section 3122.1 (relating to statutory sexual assault)
 - Section 3123 (relating to involuntary deviate sexual intercourse)
 - Section 3124.1 (relating to sexual assault)
 - Section 3125 (relating to aggravated indecent assault)
 - Section 3126 (relating to indecent assault)
 - Section 3127 (relating to indecent exposure)
 - Section 4302 (relating to incest)
 - Section 4303 (relating to concealing death of child)
 - Section 4304 (relating to endangering welfare of children)
 - Section 4305 (relating to dealing in infant children)
 - Section 5902(b) Felony (relating to prostitution and related offenses)
 - Section 5903(c)(d) (relating to obscene and other sexual material and performances)
 - Section 6301 (relating to corruption of minors)
 - Section 6312 (relating to sexual abuse of children)