

P-004 EMPLOYEE BACKGROUND CHECK

In accordance with the Kari Koskinen Manager Background Check Act (aka "Act" or "the Act"), Minnesota Statute 299C.66 to 299C.71, the following procedure will be used in conducting background checks on employees or prospective employees for designated positions.

Provisions of the Act

The Act requires background checks on managers and defines the term very broadly to include any individual "that has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling unit." The definition encompasses any person with a key or other means of access to a student room, including resident assistants, maintenance workers, janitors, and cleaning personnel.

The Act precludes employment in identified positions for conviction of committing or attempting to commit any of the following crimes as stated in Minnesota Statute 299C.67:

- First, second, and third-degree homicide
- First and second-degree manslaughter
- Criminal vehicular homicide and injury
- First, second, third, fourth, and fifth-degree assault
- Kidnapping
- First, second, third, and fourth-degree criminal sexual conduct
- Simple robbery
- Aggravated robbery
- False imprisonment
- Theft
- Burglary
- Terroristic threats
- First-degree arson
- Any violation of any level of harassment and stalking statute

The Act requires background checks on all applicants for positions that fit within the definition of *manager*. Southwest Minnesota State University (SMSU) is required to request a background check before hiring an applicant. SMSU, however, may employ the applicant pending receipt of the background check report.

If the background check indicates that the applicant has been convicted of certain defined crimes, SMSU may not hire the applicant as a manager, or if SMSU hired the applicant pending completion of the background check, SMSU must terminate the employment. SMSU must not hire an applicant if SMSU independently knows that the applicant has been convicted of any of the defined crimes. Additionally, the Act states that the employer is "not liable under any law, contract, or agreement, including liability for unemployment compensation claims, for terminating the manager's employment."

The Minnesota Bureau of Criminal Apprehension will conduct the background check. A national criminal records search will be conducted on managers or applicants who have lived in Minnesota for less than five years, or if SMSU requests such a search.

Procedures

Positions

The term *manager* under this procedure includes but is not limited to the following positions, and SMSU will conduct background checks on any new hires for these positions:

- Resident Assistants
- Commons Coordinators
- General Maintenance Workers
- Individuals assigned to residence halls
- Individuals who have access to keys to rooms
- Building Services Supervisor assigned to residence halls or who has access to keys to rooms
- Master Electrician
- Building Maintenance Supervisor
- Master Plumber
- Painter
- Residential Life personnel who have access to keys to rooms
- Director of Facilities
- Physical Plant Office and Administrative Specialist Intermediate
- Other positions identified by SMSU after notice through Meet and Confer

Security positions are handled under a separate procedure.

Procedure Administration

This procedure will be implemented and administered for employees by Human Resources. The background checks will be initiated by this office with all employee-related files and documents maintained in the Human Resource Office. The supervisor in charge of residence halls will administer this procedure for Resident Assistants and other student employees, maintaining those files and related documentation.

Hiring offices will have applicants and employees who are covered by the Act read, complete, and sign the attached Data Privacy Notice and Consent Form. Failure of applicants or employees to sign the forms could result in withdrawal of the employment offer for applicants, or reassignment or possible termination for current employees.

New Hires and Applicants

In some circumstances, emergency employment (an appointment of less than 45 days in a twelve-month period, which does not require the formal application and selection process) of a manager may be required in the residence hall facilities. When such circumstance occurs, the emergency appointment will be made to the M&E facilities and a current employee who has completed the background check process may be temporarily reassigned to the residence halls.

Under normal circumstances, SMSU will proceed to hire a candidate for the managerial positions listed in this procedure, pending the results of the background check report. The new employee will not be issued nor have access to any keys that could provide access to student rooms during this waiting period.

Upon receipt of the background check report on any applicant, the Office of Human Resources will notify the appropriate department head of a) any felony violations or convictions of attempts to commit these crimes by the applicant or b) that the report indicated no related negative information to the applicant as defined in this procedure.

Should the background check report indicate felony violations or convictions of an attempt to commit these crimes, action will be taken immediately to terminate the employee or applicant, and Human Resources will so notify the employee or applicant as appropriate.

Policy History

Date of Adoption: September 1998

Date of Last Review: April 21, 2025

Date and Subject of Amendments

4/21/2025 – updated language and removed section that applied background checks to current employees.