

P-004 EMPLOYEE BACKGROUND CHECK

Code: P-004

Date: September 1998

Approved: Doug Sweetland

Southwest Minnesota State University Policy

Employee Background Check

Purpose

In accordance with the Kari Koskinen Manager Background Check 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

1. 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, and janitors and cleaning personnel.
2. 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
3. The Act requires background checks on all applicants for positions that fit within the definition of “manager.” The University is required to request a background check before hiring the applicant. However, the University 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, the University may not hire the applicant as a manager, or if the University hired the applicant pending completion of the background check, the University must terminate the employment. The University must also not hire an applicant if the University 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.

4. The Act also requires background checks on all current employees whose positions fit within the definition of “manager.” The University may continue to employ a manager that has been convicted of background check crimes. However, the college must inform all students whose dwelling units are accessible to the manager of the crime for which manager has been convicted. Those students must also be informed of their right to terminate their tenancy.
5. 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 the University requests such a search.

Procedures

1. Positions: The term manager under this procedure will include but is not limited to the following and Southwest Minnesota State University will conduct background checks on any new hires for these positions:
 - Resident Assistants
 - Commons Coordinators
 - Building Services Foreman assigned to over see Residential Life
 - General Maintenance Workers assigned to residence halls and/or who have access to keys to rooms
 - Electricians
 - Electrician Supervisor
 - General Repair Workers
 - Plumber
 - Painter
 - Residential Life personnel who have access to keys to rooms
 - Locksmith
 - Other positions identified by the University, after notice through Meet & Confer

Security positions are handled under a separate procedure.

2. 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 or employee/transferor who are covered by the Act to 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.

Current Employees

1. Within the 1999 fiscal year, background checks will be initiated on current employees in the above positions. Should a background check indicate that a current employee has been convicted within the last ten years of one of the background check crimes listed under law, the University may consider two options: a) to reassign the employee to an available non-managerial vacancy in the same class or an equal class for which the employee is determined to be qualified or b) to terminate the employee.

2. As a current employee is transferred or promoted from a non-manager position to a manager position, the background check will be completed prior to date work commences.
3. Upon receipt of the background check report on any non-student employee, the Director of Human Resources will notify the appropriate department head of a) any felony violations or convictions for attempts to commit these crimes by the employee or b) that the report indicated no related negative information on the employee as defined in this procedure.
4. Should the background check report indicate, felony violations or convictions of attempt to commit these crimes by the employee, action will be taken to immediately terminate the employee if reassignment or transfer to another appropriate position, is not available. For bargaining unit employees, Human Resources should consult with the MnSCU Office of labor Relations prior to any action. Human resources will notify the employee of any action to be taken under this law.

New Hires/Applicants

1. 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.
2. Under normal circumstances, the University 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.
3. Upon receipt of the background check report on any applicant, the Director 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.
4. Should the background check report indicate felony violations or convictions of attempt to commit these crimes by the applicant, action will be taken to immediately terminate the employee/applicant and Human Resources as appropriate, will so notify the employee/applicant.