

Cheyney University Policy Number FA 2013-4028

Policy Title: Background Investigation and Required Child Abuse Clearances

Approved by: Finance and Administrative Council
President's Cabinet

History: Issued – 2-17-2009
Revised – October 2, 2014 Finance and Administrative Council;
November 25, 2014 President's Cabinet

Related Policies:

Additional References:

A. Purpose:

This policy is created to ensure that the required criminal background investigations and child abuse clearances are consistently conducted for Cheyney University employees, volunteers and agents acting on behalf of organizations using Cheyney University facilities. Nothing herein is intended to contradict or lessen compliance with applicable federal and state laws or regulations.

The Pennsylvania General Assembly has enacted laws to protect minors by requiring individuals having supervision, guidance, care, control, or direct interaction with minors to secure certain criminal background checks and child abuse clearances. Cheyney University must comply with these laws and also has a responsibility to assure that people with criminal convictions that may create a risk of harm for minors should be identified and removed from direct contact with minors who have been invited to the Cheyney University campus.

B. Scope:

This policy is applicable to all university employees and vendors as described.

C. Definitions:

N/A

D. Policy & Procedure

It is the policy of Cheyney University to conduct required criminal background investigations and child abuse clearances in the form of specific consumer and/or criminal reporting verifications for all persons as described in this policy. It is also the policy of Cheyney University to conduct background investigations on all those who have direct contact with minors. This policy shall also require external vendors who run conferences, events, workshops, camps, or seminars on University property where the employees or volunteers of the vendor will have direct contact with minors, to conduct background investigations and to certify to the University that the individuals participating in their conference, event, workshop, camp, or seminar, have been cleared to participate in that activity.

Direct contact shall mean the possibility of care, supervision and guidance or control of minors or routine interaction with minors. Examples of such occupations/assignments include but are not limited to the camp director, coaches, instructors, counselors, support staff, students and volunteers. Nothing herein is intended to contradict or lessen compliance with applicable federal and state laws or regulations.

Background investigations will be used solely to evaluate the individuals' eligibility to be engaged in any conferences, events, workshops, camps or seminars where they may have direct contact with children and will not be used to discriminate on the basis of race, color, sex, religion, national origin, age, disability, sexual orientation, or veteran's status.

I. Applicability

- a. All new appointees who will work at Cheyney University are subject to this policy. This policy will not be applied retrospectively to current employees unless they have direct contact with minors, seek promotion (except for faculty), transfer to a position which has been determined to require consumer or criminal background verification.
- b. Volunteers (including existing employees not previously authorizing background clearance).
- c. Employees or volunteers who have reason to work with or access areas used by minors on behalf of Cheyney University of Pennsylvania. This includes, but is not limited to,

those participating in summer camps, short-term academic enrichment programs or those with access to living spaces for students.

- d. Agencies using university facilities through contract agreements shall provide proof that background clearances were completed for those who will have access to minors. Costs associated to these checks are the responsibility of the agencies using Cheyney University facilities. These checks include:
 - i. Act 151 - Form CY113 - Pennsylvania Child Abuse History Clearance
 - ii. Act 34 - Form SP4-164 - Pennsylvania State Police Request for Criminal Record Check
 - iii. CHRI - Federal Criminal History Record Information
- e. Campus residents excluding students, such as visiting scholars.
- f. Individuals failing to adhere to the University's Background Investigation Policy or providing false or misleading information may be prohibited from participating in the conference, event, workshop, camp, or seminar. In the event that the individual (referred to in the previous statement) is a Cheyney student, the student will be referred to the University Student Conduct System. In the case of external vendors contracting for the use of University property, failure to provide proof of adherence to the University's Background Investigation Policy or providing false or misleading information, may result in prohibiting participation of those individuals and may also result in termination of the Cheyney University Facilities Use Lease Agreement.
- g. All persons covered under this policy have an obligation to self-disclose those criminal arrests and convictions specified in this policy to the Office of Human Resources within a 72-hour period of their occurrence.

II. Background investigation criteria:

- a. A criminal background investigation and academic credential verification will be conducted for every position at Cheyney University.

- b. Additionally, appointees to positions which have financial responsibility which carry authority for executing or approving substantial expenditures or contracts; or which have responsibility for Cheyney University property inventory are also subject to a consumer report investigation. Background investigation requirements for other positions will be determined on a case-by-case basis.
- III. Only felony or misdemeanor convictions will be considered to the extent they relate to the applicant's suitability for employment in the position for which the person has applied. Only convictions will be considered. Arrests and accusations will not be used as a basis to disqualify applicants for employment with Cheyney University.

IV. Confidentiality

- a. PASSHE System Human Resources is responsible for securing the reports for an appointment to a Vice President position, advising the President and the Executive Vice President of any findings and maintaining the confidentiality of background investigation reports.
- b. For all other appointments in Cheyney University, the Director of Human Resources is responsible for securing the reports, advising the appropriate Vice President of any findings and maintaining the confidentiality of background investigation records.
- c. Background investigation records will be kept separate from the personnel history files and shall not be accessible to supervisors or others who may otherwise have access to an individual's personnel records except the President, his/her designee and legal counsel.

V. Standards for Evaluating Convictions

- a. *Relevancy*: Whether the findings undermine the candidate's fitness to perform the required job responsibilities.
- b. *Severity*: The nature and gravity of findings.
- c. *Recency*: The time that has elapsed since the conviction.

VI. Procedures

a. Responsibilities

- i. At the beginning of a search, the President or the Executive Vice President will determine which background check(s) are necessary for appointment to a Vice President position.
- ii. For all other appointments in Cheyney University the appropriate Vice President and the Director of Human Resources will determine which background check(s) are necessary at the beginning of a search.

b. **Costs:** The costs for background verification and clearance activities conducted by the Department of Human Resources will be assigned to the relevant campus departments.

c. **Recruitment:** All vacancy announcements will include the following statement - "prior to a final offer of employment, the selected candidate will be required to submit to a background check including but not limited to, employment verification, educational and other credential verification and criminal background check."

d. **Verification Services:** A contracted service is in place for the purpose of having a timely, professional, effective means of conducting background checks for current and potential employees, volunteers and students. This service will be coordinated by the Office of Human Resources.

VII. Notice and Authorization Requirements:

- a. Verification services as described above are subject to the Fair Credit Reporting Act. The successful candidate(s) must execute an authorization that allows Cheyney University to conduct a background investigation. This authorization, mandated by the Fair Credit Reporting Act, must be a document separate from the employment application.
- b. For all appointments in Cheyney University, except for the President, the Office of Human Resources is responsible for providing all related notices and obtaining completed authorization forms before a request is made to the verification service provider.

- c. Refusal to sign the authorization will result in the candidate being eliminated and disqualified from the applicant pool.

- VIII. **Successful Candidate:** A background investigation will be completed on the successful candidate only. If the successful candidate is not appointed, the next qualified applicant will be required to submit to the background investigation and so forth.

- IX. **Offers of Employment:** All employment offers are subject to and contingent upon satisfactory completion of a background investigation. In the event of a delay in completing the background investigation, employment may begin; however, the appointment letter must indicate that continued employment is conditional pending a satisfactory background investigation.

- X. **Address Discrepancies:** If the Office of Human Resources receives notice that there is a discrepancy between the address(es) of the successful candidate and what is contained in the background investigation, the Director of Human Resources shall verify with the successful candidate that the information received in the Background Investigation is that of the successful candidate unless there is information in the candidate's application that resolves the discrepancy. This verification may be done orally, however the Director of Human Resources shall document the conversation relative to the corroboration of the information received in the Background Investigation.

- XI. **Disqualification from Employment or Service:**
 - i. For Vice President positions, the President and/or the Executive Vice President, in conjunction with legal counsel, will determine if the findings disqualifies an applicant from in the position sought.

 - ii. For all other appointments in Cheyney University, the appropriate Vice President in conjunction with legal counsel, will determine if the findings disqualifies an applicant for employment in the position sought.

XII. Notice of Adverse Action:

If employment, transfer, service or promotion is denied, based in whole or in part due to information contained in the report, a copy of the report will be provided to the candidate (titled, Confidential To Be Opened by Addressee Only), along with a copy of the Summary of Your Rights Under the FCRA.

- a. Additionally, an Adverse Action Notice will follow no sooner than five (5) days after the date the consumer report was sent. Said notice will include the reasons for the adverse employment action, the name, address and telephone number of the reporting agency that furnished the report, a statement that the reporting agency did not make the decision to take the adverse employment action and is unable to provide the candidate with the reasons as to why the adverse employment action was taken, notice of the candidate's right to obtain a free copy of the report directly from the reporting agency, and notice of the candidate's right to dispute the accuracy and completeness of the report within sixty (60) days.
- b. Cheyney University is not required to suspend the search or delay an employment decision as a result of the dispute.

XIII. RESPONSIBILITIES

- a. For employees, volunteers and students representing Cheyney University, it shall be the responsibility of the individual to acquire the required child abuse screening reports at their own expense. Documents should be provided to the Office of Human Resources.
- b. Volunteers or employees of External Providers of residential camps/conferences/workshops and individuals or organizations that conduct, conferences, events, workshops, camps or seminars on the University's property are responsible for ensuring that all individuals of their group who may have direct contact with minors have been screened to the same extent as prospective employees/volunteers of the University and report any criminal arrests or convictions as specified in this policy. The Provider must submit verification to the Office of Procurement Services that such clearances have been conducted, reviewed and are in

compliance with this policy at least two weeks prior to the event/conference taking place.

- c. Camp/Conference/Workshop Director - The University employee who is identified as the Camp/Conference/Workshop Director, or the individual ultimately responsible for hosting the event, is responsible for ensuring that all individuals who may have direct contact with minors have obtained the above screening reports and have been approved for hire by the Office of Human Resources **prior** to participating in the event.

XIV. GROUNDINGS FOR DENYING ACCESS TO UNIVERSITY FACILITIES

- a. No person covered by this policy shall be engaged in services when the individual is named in the Department of Public Welfare's central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification.

- b. No person covered by this policy shall be engaged in services where the report of criminal history record information indicates the individual has been convicted of an offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes or an equivalent crime under Federal law or the law of another state (includes attempt, solicitation or conspiracy to commit):
 - i. Chapter 25 (relating to criminal homicide)
 - ii. Section 2702 (relating to aggravated assault)
 - iii. Section 2709.1 (relating to stalking)
 - iv. Section 2901 (relating to kidnapping)
 - v. Section 2902 (relating to unlawful restraint)
 - vi. Section 2910 (relating to luring a child into a motor vehicle or structure)
 - vii. Section 3121 (relating to rape)
 - viii. Section 3122.1 (relating to statutory sexual assault)
 - ix. Section 3123 (relating to involuntary deviate sexual intercourse)
 - x. Section 3124.1 (relating to sexual assault)
 - xi. Section 3124.2 (relating to institutional sexual assault)

- xii. Section 3125 (relating to aggravated indecent assault)
 - xiii. Section 3126 (relating to indecent assault)
 - xiv. Section 3127 (relating to indecent exposure)
 - xv. Section 3129 (relating to sexual intercourse with animal)
 - xvi. Section 4302 (relating to incest)
 - xvii. Section 4303 (relating to concealing death of child)
 - xviii. Section 4304 (relating to endangering welfare of children)
 - xix. Section 4305 (relating to dealing in infant children)
 - xx. A felony offense under section 5902(b) (relating to prostitution and related offenses)
 - xxi. Section 5903(c) or (d) (relating to obscene and other sexual materials and performances)
 - xxii. Section 6301(a) (1) (relating to corruption of minors)
 - xxiii. Section 6312 (relating to sexual abuse of children)
 - xxiv. Section 6318 (relating to unlawful contact with minor)
 - xxv. Section 6319 (relating to solicitation of minors to traffic drugs)
 - xxvi. Section 6320 (relating to sexual exploitation of children)
 - xxvii. A felony offense under the Controlled Substance, Drug, Device and Cosmetic Act
- c. No person covered by this policy that has been convicted of any felony offense, shall be eligible to engage in activities which require direct contact with minors unless a period of ten (10) years has elapsed from the date of expiration of the sentence for the offense.
 - d. No person covered by this policy that has been convicted of a misdemeanor shall be eligible to engage in activities which require direct contact with children unless a period of five years has elapsed from the date of expiration of the sentence for the offense.
 - e. Criminal convictions will be reviewed with respect to the nature and gravity of the offense(s); time since conviction; completion of sentence or any other remediation; and relevance to the activity which the individual is performing.
 - f. No person covered by this policy that has been convicted for an offense under 75 Ph.C.'s. § 3802(a), (b), (c) or (d) (relating to driving under influence of alcohol or

controlled substance) and the offense is graded as a misdemeanor under 75 Ph.C.'s. § 3803 shall be eligible to engage in activities which may require direct contact with minor unless a period of three years has elapsed from the date of expiration of the sentence for the most recent offense.

XV. **DISTRIBUTION:**

All Employees, annually through notification of the Policy Register

All Students, annually through notification of the Policy Register