

# 7.14 BACKGROUND CHECK

Original Date of Issue: 3/19/2008

Revised: 10/21/15

## Introduction

Delaware County Community College (College) seeks to provide a safe learning and working environment for students, faculty, staff, and campus visitors. PA Act 153 of 2014 requires criminal background checks for any school employee (18 years of age or older) who has "direct contact" (defined below) with a child (defined below). The law which amends the PA Child Protective Services Law (CPSL) became effective on December 31, 2014. The background checks required by PA Law includes: (1) a Pennsylvania State Police Criminal Background Check; (2) a certification from the Department of Human Services as to whether the applicant is named in the statewide database as an alleged perpetrator in a pending, indicated, or founded child abuse investigation; and (3) a report of Federal criminal history record information obtained by the submission of a full set of fingerprints to the Commonwealth for submission to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information.

Beginning December 31, 2014, certifications must be obtained every 60 months.

All College employees, students, independent contractors, and volunteers in College-sponsored programs or in programs held on College property are subject to and must comply with the requirements of this policy and the requirements of PA CPSL with certain exceptions set forth below. In addition, all programs subject to state licensure are required to comply with applicable laws and regulations relating to child protection, certifications, mandatory reporting, and training.

## Definitions

"Direct contact with children" as used herein shall mean providing care, supervision, guidance, or control of children, or routine interaction with children. Routine interaction is defined as regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

"Child" or "Children" as used herein refers to any person under 18 years of age.

"Child abuse" as used herein shall have the meaning set forth in §6303 of the CPSL, and includes intentional, knowing, or reckless actions or omissions that cause or create the likelihood of bodily or mental injury to a child, the sexual abuse or exploitation of a child, and serious physical neglect of a child.

## Exceptions

Certifications are not required for employees of the College whose direct contact with children, in the course of employment, is limited to either:

- a. Prospective students visiting a campus operated by the College, or
- b. Matriculated students who are enrolled with the College.

Matriculated student is defined as a student who is enrolled in the College and pursuing a program of study that results in a postsecondary credential, such as a certificate or degree. The exemption does not apply to students who are enrolled in a secondary school.

## Certifications

Certifications will be required before any adult may be hired, appointed, employed, assigned, reassigned, or otherwise placed or permitted by the College to serve in a position that involves direct contact with children. Required certifications include the following:

- FBI Criminal Background Check
- Pennsylvania Department of Human Services Child Abuse History Clearance
- Pennsylvania State Police Criminal Background Check

Additional certifications relating to contact with children may be required to the extent required by law or by a third party as a condition of access to that third party's facility. Students are not required to submit certifications under this policy unless they are also employed by or serving as an unpaid volunteer for the College in a position that involves direct contact with children. However, students may be required to submit certifications in order to enroll in a specific course or program or to complete degree requirements that involve access to a third party's facility or that otherwise involve a significant likelihood or direct contact with children.

Certifications will be subject to periodic renewal in accordance with the requirements of the CPSL.

## Reporting of Arrests and Convictions

All employees, volunteers, and other individuals covered by this policy must provide written notice to the Vice President of Human Resources if they are: (1) arrested for, or convicted of, an offense that would constitute grounds for denial of employment or participation in a program, activity, or service under §6344 © of the CPSL; or (2) are named as a perpetrator in a founded or indicated report under the CPSL. The employee or volunteer shall provide written notice within 72 hours of arrest, conviction, or notification that the person shall be listed as a perpetrator in a statewide data base. Willful failure to make a written notification as required herein may result in disciplinary action, including termination of employment or assignment, as well as criminal prosecution under the CPSL.

If the College receives information which establishes a reasonable belief that an employee or volunteer has been arrested or convicted of a reportable offense or was named as perpetrator in a founded or indicated report under CPSL, then the employee or volunteer in question will be required to submit current certifications in accordance with established College procedures and the requirements of §6344.3 of the CPSL.

## Independent Contractors and Third Party Service Providers

Independent contractors, vendors, and other third parties who provide programs, activities, or services to or on behalf of the College shall be required to comply with the requirements of the CPSL, including, at a minimum, obtaining required certifications from their agents and employees who will have direct contact with children and reporting suspected child abuse to the appropriate authorities.

## Mandatory Reporting

In accordance with Pennsylvania law, any employee, volunteer, or independent contractor who has reasonable cause to suspect child abuse, including but not limited to sexual abuse, shall make an immediate and direct report to ChildLine, either electronically

at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis) (<http://www.compass.state.pa.us/cwis>) or by calling 1-800-932-0313. Immediately thereafter, the individual must also make an immediate and direct report to the Vice President of Human Resources. Retaliation is strictly prohibited against anyone who makes a good faith report of suspected child abuse or who participates in a related investigation.

## References

Certifications and Mandatory Reporting Procedures Pennsylvania Child Protective Services Law, 23 Pa. C.S. § 6301 et seq.

In addition to the above, further background checks may be conducted on all finalists for full, part-time, and temporary administrative/professional, faculty, and support staff positions. Searches that may be performed include but are not limited to:

- Identity Verification – Validates the applicant's social security number, date of birth, current and former addresses, and other personal information.
- Academic Credentials – Confirms applicants claimed educational accomplishments and institutions, including the years attended and the degree/diploma received, relevant licenses or certifications
- Work History – Confirms applicant's employment with provided positions, including dates of employment, position held, and additional information available pertaining to salary/wages, performance ratings, reason for departure, and eligibility for rehire. This will be done as to the past two employers or for the last 10 years if there were more than two employers during that time.
- Personal and Professional References – Calls may be placed to individuals listed as references by an applicant.

The following additional searches will be required if applicable to the position:

- Motor Vehicles – Provides report on an individual's driving history in the state of residency and for the states of residency for the last ten years. This search will be done when driving will be performed as part of the position.
- Financial History – Confirms candidate's financial information and credit history. This search will be done for positions that involve management of or responsibility for College funds and/or handling cash.

## Procedure

1. As a part of the application process, all finalists will receive a disclosure statement that a consumer report may be used when making a hiring decision and that the College intends to conduct a background check that may include information about the candidate's character, personal and credit characteristics, general reputation, and criminal history. The checks may be conducted internally or by an external agency. Such candidate will receive a summary of their rights under the Fair Employment Credit Reporting Act (FCRA). As a condition of employment, candidates must sign an authorization for release of information from an external agency covered by the FCRA. Candidates unwilling to sign the authorization form will be eliminated from further consideration.
2. The Vice President of Human Resources or his/her designee will notify the hiring manager regarding the results of the check.

When adverse information is received, the College will notify the candidate by written communication, that the results of the background check warrant further review. The candidate will be sent a Background Inquiry Statement of Explanation. The candidate will be given three days to explain the adverse information. If the candidate does not supply a satisfactory justification explaining the adverse information within the three days, he or she will no longer be considered a candidate for the position in question.

3. The Vice President of Human Resources or his/her designee and the hiring manager will review the adverse information obtained from the reporting process. The decision of whether or not to hire will be determined following a thorough review of the nature and gravity of any adverse information. Only felony and misdemeanor convictions will be considered to the extent to which they relate to the candidate's suitability for employment in the position for which the candidate had applied. Consideration will include the nature and gravity of the offense or offenses, the length of time that has passed since the conviction and/or completion of the sentence, the nature of the job sought, and any evidence of rehabilitation.
4. If the College relies on a consumer report obtained from an external agent to make a negative hiring or other employment decision, prior to taking such action, it will give the candidate a "pre-adverse action disclosure" along with copies of the consumer report and "A Summary of Your Rights Under the Fair Credit Reporting Act." After making the decision, the College will notify the candidate in writing. The notice will include the name, address, and telephone number of the consumer reporting agency that supplied the consumer report; a statement that the consumer reporting agency did not make the negative employment decision; and a notice of the candidate's right to dispute the accuracy or completeness of the information provided by the consumer reporting agency, along with notice of the candidate's right to obtain a free consumer report from the agency within 60 days.
5. If the College declines to hire a candidate due to information, other than a consumer report from an external agent, uncovered as a result of the background check, the Human Resources Department will notify the candidate using the Notice of Adverse Action letter that he or she is not eligible for employment at the College.
6. The Human Resources Department will maintain records or other information generated by background reviews in confidential files. For those hired, these materials will be maintained in a separate file from the official personnel file. For candidates not hired, the records will be maintained for the period of time mandated by law.
7. Offers of employment will not be made to candidates recommended for hire until background checks have been obtained and reviewed to the satisfaction of the Vice President of Human Resources or to the satisfaction of his or her designee. When adequate time does not exist to complete the background check process, such as with adjunct faculty, obtaining a satisfactory background check will be a condition of continued employment.
8. The results of a background check shall not be communicated to anyone who does not have a business need to know the information.

9. The College reserves the right to modify this policy at any time without notice.