

POLICY: 6Hx28:3B-02



Responsible Executive:

Vice President, Organizational Development and Human Resources

Policy Contacts: Director, HR Policy and Compliance Programs

Specific Authority: 1001.64, F.S.

Law Implemented: 1001.64, F.S.

Effective Date:

05-23-2018

Date of Last Policy Review:

05-23-2018

Pre-Employment Screening and Inprocessing of New Employees

Policy Statement:

- I. It is the policy of Valencia College (the “College”) to perform pre-employment screenings of final job candidates for the particular position for which the final candidate is being considered. This policy is to ensure that employment decisions made using pre-employment background screenings are necessary to safe and efficient job performance and are made in accordance with applicable laws and regulations.
- II. The College will maintain a pre-employment screening practice to apply to current employees seeking transfer or promotional opportunities and external job applicants who are finalists for full and part-time positions which may include (but is not limited to): criminal background history, drug test, credit history, prior employment verification, educational history verification, professional and personal references, and Department of Motor Vehicle or other license checks as deemed necessary for the position.
- III. Employment with the College may be denied to any current employee (transfer/promotion) or external final job candidate if the results of background screenings indicate the candidate is not qualified or is unsuitable for the position for which the applicant is being considered.
- IV. Applicants will be notified in advance which type of background check that will be conducted for the position sought, and that any offer of employment is subject to completion of the background checks with results acceptable to Valencia College, as job

related to the position in question and consistent with business necessity. Background checks shall be required for only the final candidate for the position, and not the entire pool of candidates. The final candidate will be required to consent in writing to such a background check prior to the finalization of the employment decision. Failure to consent to the background check will disqualify the final candidate from further consideration. A final candidate who fails to provide the necessary information or who provides false or misleading information may be disqualified from further consideration. Later discovery of false or misleading information related to a background check may subject the employee to disciplinary action up to and including termination.

- V. The College will exercise its best efforts to maintain confidentiality as authorized and allowed by law and shall ensure that pre-employment screenings are conducted in compliance with applicable laws and regulations. The College will only use information obtained from the reference and background check process for the purpose for which it is intended as part of the employment process and information pertaining to criminal records will be kept confidential to the extent feasible. Information discovered through the background check process will be used solely for the purpose of evaluating a finalist's suitability for employment. It will not be used to discriminate against a finalist on the basis of race, ethnicity, color, national origin, age, religion, disability, marital status, sex/gender, genetic information, sexual orientation, gender identity, pregnancy, and any other factor protected under applicable federal, state, and local civil rights laws, rules and regulations.
- VI. The president may adopt and amend procedures for the implementation of this policy from time to time.

Policy

History:

Adopted: 8-18-93; Amended and Retitled 6-19-14; Amended 5-23-18; Formerly 6Hx28:07-37; Formerly 6Hx28:3B-03

Related Policies:

Policy 6Hx28: 3B-03 – Recruitment, Selection, and Hiring

Policy 6Hx28: 10-08.2 – Drug-Free Workplace

Procedures:

- I. Each internal and external job applicant finalist is required to submit to required pre-employment screenings and to provide requested information, documentation, and complete forms as required by the Human Resources office including, but not limited to:
 - A. Application for Employment
 - B. W-4 Form
 - C. Loyalty Oath
 - D. I-9 form along with required supporting documents
 - E. written verification of previous employment/education
- II. The director of talent acquisition, in consultation with the hiring department's vice president (or designee), will determine/confirm the types of appropriate pre-employment screenings for each job classification prior to posting an open position or making an internal transfer.
- III. Regarding criminal background screenings:
 - A. Once the background check is completed, the College will make a hiring decision based upon the information gathered. If negative information is obtained through the background check process, the College will determine whether the information is job-related and if the decision not to hire is consistent with business necessity. In making this determination, the College will make an individualized assessment of the particular candidate and the job in question and consider, among other relevant information:
 1. For criminal convictions and pleas, the nature and seriousness of the offense(s); the amount of time that has elapsed since the offense(s); the number and type of offenses; the accuracy and completeness of the information provided by the finalist during the selection process; the nature of the position in question and the relationship of the offense to the responsibilities of the position; and whether hiring, transferring or promoting the finalist would pose an unacceptable level of risk to the College.
 2. For all other negative information, the nature and seriousness of the activities or data obtained, the amount of time that has elapsed since the activities or data, whether the information is related to the responsibilities of the position, and the accuracy and completeness of the information provided by the finalist during the application process.

- B. In instances where negative or incomplete information is obtained, the director of talent acquisition will notify the hiring manager regarding the results. The appropriate management and the vice president of human resources will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired. If any applicant is found to have falsified any information regarding conviction history, the applicant may not be considered for employment. If an employee seeking a transfer or promotion to a position requiring a criminal history record check is found to have falsified any information regarding conviction history, the employee may be immediately discharged.
- C. If adverse action is probable based in whole or in part on the results of a background check, the finalist will receive a copy of the background check report, a Pre-Adverse Action Notice, and a document summarizing his/her rights under the Fair Credit Reporting Act (FCRA). Finalists will be permitted to provide responsive information regarding their criminal history, including evidence that they did not commit the offense (in the case of a misidentification), evidence of rehabilitation or character, the length of time since the last criminal conviction, and other extenuating circumstances. The finalist will be given five (5) business days to provide this information so as not to halt the recruitment process for the position. Extensions may be provided to the finalist at the sole discretion of Valencia College.
- D. If adverse action is taken against the finalist in whole or in part based upon the results of a background check, the finalist will receive an Adverse Action Notice, indicating that no further action will be taken and the offer will be rescinded. The finalist will also receive a document summarizing his/her rights under the FCRA.

IV. Regarding drug screenings:

- A. The College may deny employment and/or rescind a conditional employment offer based on the results of a drug test if the job applicant finalist: (1) refuses to submit to a drug test performed by a qualified laboratory chosen by the College; or, (2) tests positive for the presence of an illegal drug by a confirmed test using such scientifically accepted methods of testing procedures as approved by the State of Florida, Agency for Health Care Administration.
- B. The College shall provide written notice within five (5) business days after receipt of a positive confirmed test result, the consequences of such result, and the options available to the applicant.
- C. An applicant whose confirmed test result is positive or positive dilute may explain or contest the test result in the following manner:
 - 1. Within five (5) business days of receiving the College's written notice of a positive test result, the applicant may provide the director of talent acquisition with a written explanation of or challenge to the test results, and choose to have the original sample re-tested at a State of Florida,

Agency for Health Care Administration approved location;

2. The explanation or challenge shall be reviewed by a medical review officer selected by the College;
 3. The College shall within fifteen (15) calendar days of receiving such explanation or challenge, send the applicant a copy of the laboratory report, the report of the medical review officer, and notify the applicant of its determination of whether the explanation is satisfactory and what, if any, action shall be taken.
 4. The re-test shall be paid by the candidate.
- D. The College will not discriminate against applicants for employment because of past abuse of drugs. It is the current abuse of drugs that the College will not tolerate. An applicant denied employment because of this policy may initiate another inquiry for employment with the College after twelve (12) months from the denial date.
- E. If a drug test result is received as a negative dilute, inconclusive, invalid, or the test result is otherwise unavailable, the College may send the candidate back to the drug testing facility to be re-tested. Based upon the recommendation of the testing facility, re-tests may take place under direct observation. The cost of the re-test, if administered, shall be paid by the College. If a drug test result is received as a positive dilute, Section IV.C. of the procedure will be followed.
- F. For the purpose of procedures related to drug screenings, the following definitions apply:
1. "Confirmed test" means a second analytical procedure run on a sample that was positive on the initial screening test. The confirmation test must be different in scientific principle from that of the initial test procedure. The confirmation method must be capable of providing requisite specificity, sensitivity and quantitative accuracy.
 2. "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein.
 3. "Drug test" means any chemical, biological or physical instrumental analysis in conformity with rules of the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, administered for the purpose of determining the presence or absence of a drug or its metabolites.
 4. "Initial drug test" means a sensitive, rapid and reliable procedure to

identify negative and presumptive positive specimens. All initial tests shall use an immunoassay procedure or an equivalent, or shall use a more accurate scientifically accepted method approved by the Department of Agency for Health Care Administration as more accurate technology becomes available in a cost-effective form.

5."Laboratory" means a facility, inside or outside the State of Florida, licensed by the Agency for Health Care Administration or a facility certified by the United States Department of Health and Human Services to analyze specimens for the detection of drugs.

6."Medical Review Officer or MRO" means a licensed physician, employed with or contracted by the College, who is responsible for receiving and reviewing all confirmation results from the laboratory. The MRO is responsible for contacting all positively tested individuals to inquire about possible prescriptive or nonprescription medications which could have caused a positive test result.

**Procedure
History:**

Adopted: 8-18-93; Amended and Retitled 6-19-14; Amended 7-25-17; Amended 5-23-18;
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05-23-2018

Procedure supersedes amended procedure 06-03-2017