



## CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

**Department:** Human Resources  
**Subject:** Background Check - Juvenile Services Positions

**Policy Number:** 6-16  
**Supersedes:** 01/14/19  
**Date Issued:** 09/15/19

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### I. PURPOSE

The purpose of this administrative procedure is to implement Section 2-79 of the Chesterfield County Code, which requires background checks on all applicants for employment who will provide services to juveniles and all current employees who provide services to juveniles. The purpose of the ordinance is to preserve the safety and well-being of children. Accordingly, the county will not employ individuals to work with children if they have demonstrated past conduct incompatible with service to or care of children. This procedure also outlines requirements for criminal background checks for contract workers who will provide services to juveniles.

### II. COVERED POSITIONS

This administrative procedure shall apply to any county position that the County Administrator determines is a position which services juveniles (Juvenile Services Position). The Department of Human Resources (HR) shall maintain a list of Juvenile Services Positions and notify all department directors of Juvenile Services Positions within their department.

### III. IMPLEMENTATION

- A. **New Hires for Juvenile Services Positions** – Each applicant offered a Juvenile Services Position shall be required, as a condition of their employment, to submit to fingerprinting and to execute a Release and Certification form to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigations for the purpose of obtaining criminal history record information regarding such applicant. The Release and Certification Form is automated and available on HR's intranet site. All persons hired for Juvenile Services Positions shall be given a conditional offer of employment and be permitted to begin work. Continued employment is subject to completion of a satisfactory background check.
- B. **Current Employees in Juvenile Services Positions** – The County Administrator may implement a system-wide random criminal background check process for all Juvenile Services Positions if he deems such a process appropriate.
- C. Employees will receive a background check when promoted to a position in their own or another department or when applying for a transfer to another department. These employees must submit to fingerprinting and execute a Release and Certification Form to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigations for the purpose of obtaining criminal history record information. Employees shall be given a conditional promotional or transfer offer and be permitted to start their new position subject to completion of a satisfactory background check. All employees must provide accurate and complete information. Failure to complete all information accurately will result in disciplinary action up to and including termination. If an employee is promoted or is applying for transfer to another department within 60 days of completing a Juvenile Services position background check, a new background check is not required.
- D. **Falsification of Employment Application** - Falsification of the criminal background section of the employment application will render the applicant/employee ineligible to reapply with the county or reapply for promotion/transfer. Applicants or employees rendered ineligible to reapply with the county for failing to disclose a misdemeanor conviction on their application prior to September 24, 2018, may be permitted to submit a request for rehire eligibility after six

months. Applicants or employees must contact Human Resources to begin the process to request rehire eligibility.

- E. Contract Workers Providing Services to Juveniles - Each contract worker who will provide services to juveniles shall be required to submit to fingerprinting and to execute a Release and Certification form to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigations for the purpose of obtaining criminal history record information regarding such contract worker. Contract workers must successfully complete the background check process before providing services to juveniles.
- F. Seasonal employees, contract workers, volunteers and HR floaters who successfully complete a background check are authorized to work for Chesterfield County for a period of three years, even when there is a break in employment, or contract service or volunteerism. At the end of the three-year period, a new background check must be completed to continue employment, contract work or volunteerism. Background checks may be administered more often if required by law.
- G. Temporary (Temp) Agency Workers – The County shall complete a federal background check on every temporary agency employee working in the areas/departments designated as (1) safety sensitive, (2) financial, and/or (3) serving juveniles when the engagement will or is expected to exceed one week. The County reserves the right to perform federal background checks on all other temporary agency employees at the discretion of the County. The County shall review and determine if a background check is acceptable and reserves the right to reject/terminate any temporary agency employee that does not meet County standards.
- H. HR does not conduct criminal background checks on persons under the age of 18 but will conduct an internet search for public records.

#### **IV. APPLICABLE DATA BASES**

HR shall process each Release and Certification in order to receive national and state conviction information from the Central Criminal Record Exchange (“CCRE”) maintained by the State Police; the Sex Offender and Crimes Against Minors Registry; the Court Access Information System (“CAIS”) maintained by the Virginia Supreme Court; the Central Registry of Child Abuse through the State Department of Social Services; and other data bases legally accessible by the county.

#### **V. BARRIER CRIMES/DISPOSITIONS**

No person shall be retained for employment in a Juvenile Services Position or be approved to provide contracted services to juveniles if the results of the background check show that the person has a child protective service founded sexual abuse disposition or has ever been convicted of any of the following crimes as set out in Title 18.2 of the *Code of Virginia* as may be amended or equivalent offenses in another state:

##### **A. Crimes Against the Person**

1. Murder and manslaughter (§ 18.2-30 et seq.)
2. Malicious wounding by mob (§ 18.2-41)
3. Abduction (§§ 18.2-47A, -48)
4. Felony assault and bodily wounding (§ 18.2-51 et seq.)
5. Robbery (§ 18.2-58)
6. Carjacking (§ 18.2-58.1)
7. Extortion and other threats (§§ 18.2-59, -60)
8. Sexual assault (§ 18.2-61 et seq.)
9. Felony stalking (§ 18.2-60.3)
10. Any other felonies against the person as defined by the Code of Virginia

11. Convictions of any attempts or conspiracies to commit any of the aforesaid crimes

**B. Crimes Against Property**

1. Felony arson (§ 18.2-77 et seq.)

2. Burglary (§ 18.2-89 et seq.)

3. Convictions of any attempts or conspiracies to commit any of the aforesaid crimes

**C. Crimes Involving Health and Safety**

1. Felony conviction relating to distribution of drugs. (§18.2-247 et seq.)

2. Felony possession of drugs within eight (8) years of the date of application (§18.2-247 et seq.)

3. Drive-by shooting (§ 18.2-286.1)

4. Use of machine gun in a crime of violence (§ 18.2-289)

5. Aggressive use of machine gun (§ 18.2-290)

6. Use of sawed off shot gun in crime of violence (§ 18.2-300A)

7. Felonious discharge of firearms within or at occupied dwellings (§ 18.2-279)

8. Convictions of any attempts or conspiracies to commit any of the aforesaid crimes

**D. Crimes Involving Morals and Decency**

1. Failing to secure medical attention for injured child (§ 18.2-314)

2. Pandering (§ 18.2-355)

3. Crimes against nature involving children (§ 18.2-361)

4. Taking indecent liberties with children (§§ 18.2-370, -370.1)

5. Abuse and neglect of children (§ 18.2-371.1)

6. Obscenity offenses (§ 18.2-374.1)

7. Possession of child pornography or electronic facilitation of pornography (§§ 18.2-374.1:1, -374.3)

8. Incest (§ 18.2-366)

9. Abuse and neglect of incapacitated adults (§ 18.2-369)

10. Employing or permitting a minor to assist in an act constituting an obscenity offense (§ 18.2-372 et seq.)

11. Conviction of any attempts or conspiracies to commit any of the aforesaid crimes

**VI. ALL OTHER CRIMES/DISPOSITIONS/DISQUALIFYING RESULTS**

All other convictions, child protective services dispositions, and any pending or past charges revealed through a background check for a Juvenile Services Position or contract worker position shall be considered on a case by case basis to determine whether or not the past conduct of the employee is compatible with working with juveniles. In determining whether or not an individual's criminal background disqualifies the individual from employment/contract work with the county, the following factors may be considered:

A. The number of convictions in the applicant's/employee's/contract worker's past

B. The nature and seriousness of the offending conduct

C. How the past conduct relates to the particular functions of the job or the ability, capacity, or fitness required to perform the duties of the job

D. The degree of public contact in the job

E. The length of time since the conviction

- F. The circumstances of any convictions
- G. The applicant's/employee's employment history prior to and since the offending conduct
- H. Rehabilitation of the individual
- I. How such conduct could affect the integrity of the workplace
- J. The age of the individual at the time of conviction
- K. The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved.

If the search returns information regarding any employee or contract worker, HR and, as appropriate, the Department Director and the County Attorney, shall determine whether such information disqualifies the individual for employment in accordance with Sections V and VI. If the employee is disqualified, they will not be retained in a Juvenile Services position. If a contract worker is disqualified they will not be allowed to provide contracted services to juveniles.

#### **VII. DISSEMINATION OF RESULTS**

All background search information shall be accessed solely by HR. At the conclusion of the background check an employee or contract worker may review a copy of the results. HR shall destroy the criminal record provided by the State Police after the background investigation is complete.

#### **VIII. CONFIDENTIALITY**

HR shall maintain the confidentiality of all records received pursuant to a background search and destroy such records after a final decision has been made to retain or terminate the employee.

#### **IX. GRIEVANCE**

Any full-time, non-probationary employee disciplined as a result of a background search may grieve such discipline in accordance with the County's grievance procedure.

#### **X. APPLICATION TO OTHER PROCEDURES**

This administrative procedure shall not affect the Police Chief's ability to suspend immediately any officer charged with any crime as authorized by Section 2.1-116 of the *Code of Virginia* or affect the police officers' and firefighters' bill of rights. The scope of the background search provided by this procedure shall not prohibit a broader background search on an employee as required or permitted by law.