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**SUBJECT: CRIMINAL BACKGROUND CHECKS (ALL EMPLOYEES)**

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**1.0 PURPOSE**

To provide for criminal background checks of certain prospective and existing employees of Snow College.

**2.0 DEFINITIONS**

- 2.1. *Adjunct Faculty* – part-time teachers, visiting lecturers, and other professional staff members of businesses, industries, and other agencies and organizations who are appointed by the College on a part-time basis to carry out instructional or public service functions.
- 2.2. *Applicant* – the final applicant offered employment, transfer or promotion, contingent on acceptable results of a criminal background check and other reviews required for the position by the College such as financial/credit checks, degree transcripts or license documentation. Faculty employees receiving a promotion in rank are not considered applicants.
- 2.3. *Background Check* – a commercial or governmental process of searching public records to determine no less than whether an individual has been convicted of criminal conduct anywhere in the United States of America within no less than the last seven years.
- 2.4. *Diminished Capacity Adult* – a person who lacks decision making capacity which requires, to greater or lesser degree: (1) possession of a set of values and goals; (2) the ability to communicate and to understand information; and (3) the ability to reason and to deliberate about one's choices.
- 2.5. *Employee* – a faculty employee, exempt or non-exempt staff employee, executive employee, or coach of the College who receives compensation for work or services from funds controlled by the College, regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked. An employee may be full-time, part-time or temporary.
- 2.6. *Felony* – a serious crime declared to be a felony by the common law or statute regardless of the punishment actually imposed. A crime which was charged as a felony at the time of conviction, but which has been reduced to a misdemeanor, or expunged, by a court of competent jurisdiction, shall not be considered a felony.
- 2.7. *Minor* – a person younger than 21 years of age.

- 2.8. *Misdemeanor (Serious Misdemeanors)* – Crimes less serious than felonies, including crimes which may have originally been charged as felonies, but which have been reduced from felonies by the court. For purposed of this policy, only the following four categories of misdemeanors are included:
  - 2.8.1. Crimes of Violence: offenses that involve a substantial risk of physical injury to another person;
  - 2.8.2. Drug Offenses: offenses involving manufacturing, distributing, possessing or using a controlled substance;
  - 2.8.3. Property Offenses: offenses, not in the categories of sex or drug offenses, that involve the unlawful taking, destruction, sale and/or receipt of property; and
  - 2.8.4. Sexual Misconduct/Moral Turpitude: offenses that involve any illegal act of a sexual nature, involving illegal physical contact and/or engaging or attempting to engage in other activities for the purpose of sexual gratification.
- 2.9. *Protected Person* – Person defined as a minor and/or Diminished Capacity Adult.
- 2.10. *Reasonable Cause* – Where the known facts and circumstances are sufficient to warrant a person of reasonable prudence to believe that the employee poses an unreasonable risk to persons or property and/or a history or report of a crime will be found.
- 2.11. *Security Sensitive Positions* – Positions designed by the College as security sensitive whose duties require, provide for, or encompass the potential to incur human, financial or property loss or other harm to the College and its constituents. Besides College wide designations of security sensitive positions, individual departments may be subject to additional restrictions, requirements, laws or regulations. A security sensitive position should include at least one of the following elements:
  - 2.11.1. access to children, including child care in a child care center;
  - 2.11.2. relationships with students where exceptional trust and responsibility are involved, such as counselors, health care providers, coaches, and residence hall personnel;
  - 2.11.3. responsibility for providing direct medical care, treatment, or counseling and/or access to pharmaceuticals, toxins, hazardous or controlled substances;
  - 2.11.4. direct access to laboratory materials and other property that have the potential of being diverted from their proper use either for financial gain or for harmful, dangerous or illegal purposes.
  - 2.11.5. decision-making authority for committing College funds or financial resources through contracts and commitments and/or

- direct access to or responsibility for handling cash, checks, credit/debit cards or cash equivalents, institutional property, disbursements or receipts;
- 2.11.6. access to building and residence hall master control and key systems;
  - 2.11.7. access to confidential information or sensitive personal information such as employment, health, donor, financial and other records, including data that could facilitate identity theft;
  - 2.11.8. access to and responsibility for the maintenance, upgrading, and repair of the College's computer networks and/or information technology systems; and
  - 2.11.9. responsibility for public safety, or other significant health or safety issues.
- 2.12. *Significant Contact* – An employee position involves significant contact with protected persons if there is a reasonable expectation that in the course of the normal, routine responsibilities of the position, the employee and a minor would interact on a one-on-one basis. For example, teachers with office hour consultations, mentors, counselors, test center employees, coaches, and advisors could all reasonably expect to interact one-on-one with students as a normal, routine part of their work and hence would have “significant contact” with one or more protected persons during the course of their employment.
- 2.13. *Unacceptable Criminal Background Check* – A background check result which shows conviction for a felony or misdemeanor in an area which causes concern for the safety and well-being of students and staff or protection of College property.

### 3.0 POLICY

- 3.1. *Required Background Checks for Applicants* – All applicants for positions at Snow College that involve significant contact with protected persons are considered to be security sensitive by the College's president or his/her designee, must submit to a criminal background check as a condition of employment. An applicant for employment, promotion and/or volunteer service may be fingerprinted and have his/her record checked in State and National Bureaus. Before appointment, further investigation may be made of the applicant's background by the HR Department to establish that the applicant's character is above reproach and that the applicant has not committed any felony, serious misdemeanor, or is not a habitual petty law violator. An evaluation of criminal history will be a factor in determining employment eligibility.

- 3.1.1. College campus employees, whether they are full-time faculty or adjunct faculty or full-time staff or part-time staff, who are concurrent enrollment instructors and/or upward bound instructors or staff with unsupervised access to K-12 students shall complete a criminal background check.
  - 3.1.2. Additionally, students employed in the Child Development Center shall complete a criminal background check.
- 3.2. Background Checks for Existing Employees – An existing employee must submit to a criminal background check, where the College’s president or his/her designee finds that reasonable cause exists.
- 3.3. Convictions after Employment – If a current employee or volunteer is convicted of a felony or misdemeanor, they must report the conviction to the Human Resource Director within one week. If an employee or volunteer fails to report the conviction, disciplinary action may result. Human Resources shall initiate an investigation of the conviction and its impact on the College and provide a recommendation for action to the President. The College shall provide the employee or volunteer with written notice that the background check has been requested.

In the case of an incident in which an employee or volunteer is arrested or charged with an offense which causes concern for the safety and well-being of students, or concern for the protection of College property, or concern for the public image and reputation of the College, he/she is required to notify the Human Resource and/or Vice President or President within one day. Until the charge has been disposed of, the employee or volunteer may be suspended from having any contact with students and/or property while on the job, or suspended from working entirely until the case is resolved. If a pending charge results in a conviction, disciplinary action, including continued suspension and/or termination may result. Suspension, discipline and termination procedures described in the Disciplinary Sanctions Policy will be followed.

- 3.4. Exemptions – The president or his/her designee may exempt applicants for adjunct faculty, temporary or part-time positions from his requirement. These employees, in the course of their regular duties, do not typically involve interaction with a protected person and are not security sensitive, such as, student employees, facility and grounds maintenance, and instructors in custom fit, private contract training, and community education program. The president or his/her designee may require such exempt employees to self-disclose any criminal background and to sign an agreement to conform to College rules on sexual harassment and information, financial, health, and physical security.
  - 3.5. Written Release of Information – For applicants for employment, the College shall obtain a written and signed release of information for a criminal history

background check. For existing employees, the College shall request a written and signed release of information for a criminal history background check.

- 3.6. Notice a Background Check has been Requested – If the existing employee does not provide a written and signed release as requested (see E above), the employee shall receive written notice from the Human Resource Office that the background check has been requested.
- 3.7. Processing Time of Background Investigations – Background investigations shall be completed prior to an applicant assuming any duties with the College. If it is necessary for the College to bring a selected applicant onboard immediately, the offer to employment shall note that a criminal background check is in process and that the offer and continued employment shall be contingent on the result of the check.
- 3.8. Fingerprint Background Check – The College shall establish and maintain a contract with a qualified federal, state, or local agency or reputable subcontracted firm that provides criminal background checks. The agency/firm must be able to perform federal/nationwide criminal background checks on an individual for at least the last seven years.  
  
The Human Resource Office shall be responsible for administering the process. However, fingerprinting shall be the responsibility of the Public Safety Officer.
- 3.9. Consumer-reporting Agency Criminal History Background Check – The College may determine to use a consumer-reporting agency to conduct a criminal history background check instead of the fingerprint background check process. At a minimum, the consumer – reporting agency must conduct an investigation to verify the applicant or employee’s social security number, obtain information regarding past employment, and search the individual’s criminal background nationwide in the individual’s counties of residence for the last seven years.
- 3.10. Payment of Costs – The College shall pay the costs to the bureaus or agencies for fingerprinting and processing background history checks of applicants, employees, and volunteers. However, there may be such time as the president or his/her designees may require applicants to pay the costs of a criminal background check as a condition of employment.
- 3.11. Risk Assessment – Based on the convictions disclosed by the criminal background check, the College will assess the overall risk to persons and property. That risk assessment will include: (1) the number of crimes committed; (2) the severity of those crimes; (3) the length of time since they were committed; (4) the likelihood of recidivism; (5) the security sensitivity of the position sought by the applicant or held by the existing employee, and (6) other factors that may

be relevant. The College may determine that an individual with a criminal history should be considered eligible to obtain or retain the position, or that additional documentation should be required.

If a job position, whether paid or volunteer, requires that an applicant work with a protected person, those convicted of offenses involving abuse or violence against a protected person shall not be hired, regardless of when the conviction occurred.

- 3.12. Opportunity to Respond – Before an applicant is denied employment or an employee is subjected to an adverse employment action based on information obtained in the criminal background report, the College Human Resource Office will send the applicant or employee a copy of the report, written notice of the reasons for denial or the adverse action. The applicant or employee shall have an opportunity to respond to the reasons and any information received as a result of the criminal background check. If an applicant disagrees with the accuracy of any information in the report and notifies the Human Resources Office of the College within three (3) business days of his/her receipt of the report, the College shall provide a reasonable opportunity to address the information contained in the report.
- 3.13. Verification of Statements – During any background investigation, the Human Resource Department reserves the right to verify any statements or references made on the application form or other supplemental forms necessary for employment. The Human Resource Director, President, or their designee, in their discretion, may cause the truth of any applicant’s statement in the application, or such supplementary data as may be voluntarily submitted or required, to be investigated. Any item on the application determined to be falsified may result in the employee being terminated from his present position with the College and an applicant will be moved from consideration for appointment to any campus position.
- 3.14. Record Keeping – Documentation associated with criminal background checks will be kept secure and protected in the Human Resource office. The information contained in the criminal history background check will be available only to those persons involved in making employment decisions or performing the background investigation, and the information will be used only for the purpose of making an employment decision.
- 3.15. Limitation on the Use of Information – The information contained in the criminal history background check will be available only to those persons involved in making employment decisions or performing the background investigation, and the information will be used only for the purpose of making an employment or promotion decision.