



Human Resource Services **POLICY RESOURCES**

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Applies to:	Marshall University
Title:	Background Checks
Number:	MU-HR-AP-14
Effective Date:	12/19/07
Last Revision Date:	02/01/09

The purpose of this procedure is to effectuate the provisions of Marshall University Board of Governors policy HR-14, Background Checks, approved by the Board on 10/16/07 and effective 11/01/07. This procedure is applicable to regular-status (benefits-eligible) employment and certain other types of employment at Marshall University.

Definitions:

Authorization: Refers to a properly completed and submitted form, signed by the prospective or new employee subject to the provisions of the policy and procedure, authorizing the completion of background check components, and submitted to Marshall University Human Resource Services. An authorization form for this purpose is available on the Human Resource Services website at:

<http://muwww-new.marshall.edu/human-resources/forms/>

A completed authorization form is required only for background check components that Human Resource Services requests from a third-party provider as set forth below. An authorization form is not required to authorize a request for transcripts for an academic degree or to verify prior employment.

Chief Human Resources Officer: The Director, Human Resource Services, Marshall University.

Employee: A prospective or new regular-status (benefits-eligible) employee of the University who is subject to background checks as set forth in Marshall University Board of Governors Policy. The term employee as used herein generally refers only to a regular-status (benefits-eligible) employee. However, the policy also provides for background checks for certain categories of student employees, part-time employees, or students without employment. Requirements for background checks for such persons are set forth in the policy and elsewhere in this procedure. The term employee as used herein is generally similar to the term selected applicant as used in policy paragraph 4.5. Further the use of the term employee does not mean that the subject individual has commenced employment but rather means that the individual is scheduled for employment subject to satisfactory results on the background check process.

Employing Department: The college, department, office, or unit within Marshall University that employs the individual who is subject to background check. With respect to the background check components that are completed by the employing department (education verification, employment verification, and license/certificate verification), the term may also refer to the highest administrative level associated with that department where the information for those background check components is maintained. For example, if an academic program is the employing department, the term may also refer to the college housing that program if copies of college transcripts or the records of employment verifications are to be maintained at the college level.

Healthcare Sanctions: Refers generally to a search of the U.S. Department of Health and Human Services' Office of Inspector General's (OIG) database for individuals and businesses excluded or sanctioned from participating in Medicare, Medicaid, or other Federally funded health care programs. The database is comprised of information from some or all of the following organizations: OIG (U.S. Office of Inspector General); GSA (U.S. General Services Administration); FDA (U.S. Food and Drug Administration); DEA (U.S. Drug Enforcement Agency); and actions taken by any of state licensing board. See "sanctioned individual."

HR Services: Marshall University Human Resource Services.

Institution: Marshall University.

Policy: Marshall University Board of Governors Policy HR-14, Background Checks, as initially approved October 16, 2007, unless otherwise stated.

Procedure: Marshall University Human Resource Services Procedure MU-HR-AP014, Background Check, unless otherwise stated.

Prohibited Person: Statutory responsibility for the determination of who is a prohibited person rests with the Bureau of Alcohol, Tobacco and Firearms (ATF), U.S. Department of the Treasury. A prohibited person is one who is prohibited from receiving, purchasing, or possessing a firearm. Designation as a prohibited person may result from one or more of the following: (1) conviction of a crime punishable by imprisonment for a term exceeding one year; (2) being a fugitive from justice; (3) being an unlawful user of or addicted to any controlled substance; (4) adjudicated as a mental defective or committed to a mental institution; (5) being an alien illegally or unlawfully in the United States; (6) discharged from the Armed Forces under dishonorable conditions; (7) being a former U.S. citizen who has renounced his/her citizenship; (8) being subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; and/or (9) conviction of a misdemeanor crime of domestic violence.

Sanctioned Individual: Refers generally to a person who is cited in the Healthcare Sanctions database and who has been determined to be fraudulent in his/her field and/or who has had adverse actions taken against them by the licensing boards of state governments. Reported actions leading to sanctioned individual status may include reprimands, probations, suspensions and revocations of provider licenses, cease and desist orders, exclusions for failure to pay student loans, Drug Enforcement Agency (DEA) violations, child support violations, professional misconduct, other similar sanctions and exclusions. See "healthcare sanctions."

Sex and Violent Offender Registries: There does not yet appear to exist a comprehensive national database of sex offenders and/or violent offenders. Rather general current practice is for states, counties, and/or municipalities to maintain sex and violent offender registries. A background check of sex and violent offender registries within the meaning of the policy shall consist of checks against such registries as may exist in or for the counties and states in which the subject individual has resided in during the ten years preceding employment at the University.

Student Background Check: A background check provided for a student who will perform a practicum or other work at an external organization which imposes such a requirement as a condition for the student to perform the work at the external organization's worksite. See *Student Background Checking Procedure* below.

Third-Party Provider: A commercial entity duly approved and retained by the University to conduct on a compensated basis any, all, or some of the background checks required in policy.

University: Marshall University.

Types of Background Checks Required According to Type of Employment:

The policy establishes requirements for certain types of background checks according to the type of employment the individual will have with one of the institutions. As an aid to clarifying and understanding these specific requirements a chart is included at **APPENDIX A** to this procedure that sets forth in chart form the requirements.

Responsibilities to Accomplish Specific Components of Background Check:

Credit History Check (re policy paragraph 4.2): *HR Services* is responsible for requesting and obtaining credit history checks as necessary for prospective or new employees who would occupy the types of positions identified in policy paragraph 5.1.4. The President of the University may request or authorize a credit history check for a prospective or new employee who would occupy a regular-status (benefits-eligible) position of a type not identified in policy paragraph 5.1.4 if the prospective or new employee would receive, account for, work with or have access to University financial resources.

Criminal History Check (re policy paragraph 4.3): *HR Services* is responsible for conducting a criminal history check for all new employees subject to the policy covering their places of residence for ten years previous to the date that University employment would begin. Unless otherwise directed, such criminal history check shall be confined to a check of county criminal records for the counties and the criminal records for the federal court districts the employee has resided in for the last ten years preceding the date of employment at the University. All prospective or new employees of the University in regular-status (benefits-eligible) positions are subject to the criminal history check. The policy provides for certain alternate or additional criminal background checks in the case of foreign nationals (non-U.S. citizens) who are offered and who accept employment in positions subject to the policy. *HR Services* is responsible for requesting criminal background checks for foreign nationals who are subject to the policy.

Education Verification (re policy paragraph 4.4): The *Employing Department* is responsible for requesting, receiving, and maintaining official, raised-seal copies of college transcripts in connection with employment in a position that carried at the time it was posted for recruiting search a stated requirement for an academic degree. For persons with multiple successive degrees, the employing department is responsible for obtaining a copy of the transcript from the highest or last degree. Transcripts are not requested by the employing department in the case of filling a position that did not have a stated requirement for an academic degree. A copy of transcripts provided by the prospective or new employee is not acceptable. The transcript must be conveyed directly by the educational institution to the employing department. Transcripts must be maintained in the files of the employing department for the full term of the individual's employment. Consistent with the requirements of Board of Governors Policy GA-14, (Interim) Business Record Retention Policy, transcripts are considered a normal component of the personnel and employment record and must be maintained for ten (10) years after the individual's last day of work. All prospective or new employees of the University in regular-status (benefits-eligible) positions are subject to education verification to the extent that the position they occupy has a stated requirement for an academic degree.

Employment Verification (re policy paragraph 4.6): The *Employing Department* is responsible for verifying previous employment for new regular-status employees. Such verification must go back ten years if the prospective or new employee has been employed at least that long. If the new or prospective employee has had less than ten years of employment previous to their employment at Marshall University, all previous employment should be verified by the employing department. All prospective or new employees of the University in regular-status (benefits-eligible) positions are subject to employment verification.

Healthcare Sanctions Check (re policy paragraph 4.7): *HR Services* will request the healthcare sanctions check for any prospective or new regular-status (benefits-eligible) employee whose work at the University

would be in the healthcare field or in healthcare-related research. See definitions for “healthcare sanctions” and “sanctioned individual.”

License or Certificate Verification (re policy paragraph 4.8): The *Employing Department* is responsible for requesting, receiving, and maintaining proof of possession by the prospective or new employee of any license or certification that was stated as a condition for employment in any recruiting announcement(s). If a license shall have an expiration date and if the individual’s employment continues to be in a position with a stated requirement for a license or certification, the employing department shall take steps to request, receive, and maintain any successor or renewal license or certificate. If the subject employee transfers or promotes to another position that does not have a stated requirement for a license or certificate, the requirement to secure a renewed or successor license or certificate shall be withdrawn.

Prohibited Parties (Persons) Check (re policy paragraph 4.9): *HR Services* will request and obtain a report from proprietary data sources offered by the Third-Party Provider that will determine prohibited person status for any prospective or new regular-status (benefits-eligible) or part-time employee who is a foreign national and/or who will work in healthcare or healthcare research. See definitions for “prohibited persons.”

Sex and Violent Offender Registries Check (re policy paragraph 4.11): *HR Services* is responsible for requesting a check of the sex and violent offender registry. All prospective or new employees of the University in regular-status (benefits-eligible) positions are subject to the sex and violent offender registry check. See definitions for “sex and violent offender registries.”

Reporting of Results from Background Checks:

Except for education verification, employment verification, and/or license or certificate verification, background checks will be requested by HR Services from the third-party provider, and the third-party provider will convey to HR Services the results from background checks it conducts. Reports from background checks will not be distributed to the employing department but will be preserved in a confidential manner in HR Services. HR Services will report to the employing department on the results from background checks and will characterize the results in one of the following three ways:

Clear: There is no information in the background check materials that is in the opinion of the chief human resources officer any bar to present or future employment of the named individual.

Cautionary: There is information in the background check materials that is in the opinion of the chief human resources officer cautionary with regard to present or future employment of the named individual. It is requested that the recipient of this form contact the chief human resources officer as soon as possible to review this material and make decisions relative to it.

Problem: There is information in the background check materials that is in the opinion of the chief human resources officer serious and requires immediate attention with regard to present or future employment of the named individual. Concurrently with the issuance of this form to the employing department, the chief human resources officer will provide a summary of results from the background check to the President of the employing or prospectively employing institution.

The results from background checks may in any case be reviewed by but not copied by a duly-authorized representative from the employing department.

Storage and Preservation of Background Check Materials: Reports on background checks received from the third-party provider will be stored in a confidential and secure manner by HR Services. Such reports shall not be added to personnel files. Consistent with the requirements of Board of Governors Policy GA-14, (Interim) Business Record Retention Policy, reports of background checks are considered to be

related to employment and will due to that be maintained for ten (10) years after the subject individual's last day of work.

Procedure:

Initiating Event for Background Checks: The background check process is initiated on the basis of one of the following events occurring: (1) an offer of employment extended to an individual for a regular-status (benefits-eligible) employment position and the offer being accepted by the individual; (2) an offer of employment extended to and the acceptance of such offer for part-time employment involving work of the type described in policy paragraph 5.2.3; (3) an offer of employment to and the acceptance of an offer of employment by certain student employees affected by the policy; and/or (4) a student (not an employee) becoming involved in a learning or research activity that will require a background check. It is the employing department's responsibility to initiate the background check process by having the new inbound employee complete and submit a background check authorization form. Pertinent documents to be aware of in commencing the background check process include receipt of the letter from the Director, Equity Programs, approving employment or the generation of Personnel Action Request (PAR) or Electronic Personnel Action Form (EPAF) generating the employment appointment. If the letter from the Directory, Equity Programs, authorizes employment of a particular individual, if the prospectively employing department contacts the individual, and if they accept the offer of employment, then the background check process must be commenced immediately. Time is critical with regard to background checks. Employing departments must act quickly to ensure that the authorization form and the background checks they will conduct themselves are undertaken in such a manner as to ensure that the results from background checks will be in hand by the time the individual begins his/her employment. Background check authorization forms are to be transmitted in sealed envelopes to HR Services, 207 Old Main, One John Marshall Drive, Huntington, WV 25755.

Education Verification, Employment Verification, and/or License/Certificate Verification: As set forth elsewhere in this procedure, the employing department is responsible for verifying educational credentials, for verifying the most recent ten year period of employment, and for verifying any license or certificate that is required for employment. Such verifications are good business practice and should be done universally by employing departments notwithstanding requirements of policy. In terms of conduct of background check components, the employing department is responsible for (1) ensuring that a proper and adequate copy of a college transcript for the highest academic degree as necessary is received and properly preserved; (2) ensuring that records to verify prior employment (during the ten year period preceding employment at the University are created and preserved; and (3) ensuring that a valid copy of any license or certificate required for employment is obtained and preserved. Records related to these components are to be maintained at the proper administrative level as determined for that employing department. It is reasonable that the employing department will have taken steps to verify prior employment before extending an offer. The only background check components that are the responsibility of the employing department to accomplish that might not in fact be concluded before the new employee reports to work is to secure a copy of the transcript and/or license/certificate as necessary. Human Resource Services will not audit on a real-time basis the proper conclusion of these three tasks as necessary by the employing department. However, if issues arise about the satisfactory resolution of these items, employing departments will be held responsible.

Education Verification: For employment which either requires a stated college degree or in situations where an employee stated possession of an academic degree that was offered in order to qualify for a position, the prospective employee will request that the Registrar of the institution that granted his/her highest degree generate an official, raised-seal copy of the transcript and send it to a designated supervisor at the employing department (or higher administrative level as determined for that employing department). An unofficial copy of a college transcript conveyed by the prospective employee to the employing department is not acceptable. Institutions may charge a fee for the generation of transcripts. Such fees, if any, are the responsibility of the prospective employee to pay. Failure to provide within a reasonable time period an official, raised-seal copy of the transcript for the highest academic degree earned by the individual may

result in either the revocation of an offer of employment to the individual or termination of employment if already started. The length of a reasonable period of time shall be determined by the vice president for the employing department.

Employment Verification: While verification of previous employment is a common business process, employing departments may find that previous employers are reluctant to provide any information or certain specific information about their former employee. Employing departments may experience difficulty in obtaining information from former employers such as relating to the quality and quantity of the former employee's work production; how the prospective employee interacted with and related to former associates or clients; and/or what was their salary? However, as a minimum the employing department should ask four questions: (1) when did the individual start to work for that company or organization; (2) when did their employment at that company or organization end (if ended); (3) what was their job title; and (4) are they eligible for re-hire by the company or organization? Notes reflecting the answers to these four questions as a minimum should be preserved as official records in the employing department or at the administrative level designated for this purpose. If a former employer refuses to provide the answers to at least these four questions, contact the chief human resources officer immediately for assistance. The employing department may ask other questions of former employers at their discretion. However, such questions must be non-discriminatory in nature, must comply with applicable policies, and must be directly related to the duties and responsibilities of the position the prospective employee would occupy. Allowed and non-allowed questions are not within the scope of this procedure. However, no question is to be asked that relates to marital status, sexual orientation, having children, prospects for having children, or injuries or illnesses sustained by the individual whether or not those had causation in former employment.

License/Certificate Verification: Certain employment positions may require possession by the individual of a license or certificate including a driver's license, a professional license, or a competency certificate. For employment with such requirements, the employing department is responsible for obtaining from the prospective employee and preserving a valid copy of the required license or certificate. Licensing or certifying institutions may impose a fee for the generation of a copy of a license or certificate. Such fees, if any, are the responsibility of the prospective employee to pay. Failure to provide within a reasonable time period a valid copy of a required license or certificate may result in either the revocation of an offer of employment to the individual or termination of employment if already started. The length of a reasonable period of time shall be determined by the vice president for the employing department.

Actions by HR Services: Upon receipt of a signed authorization form for a background check from a prospective employee, HR Services will time/date stamp the form and review it against the matrix of required background checks that appears as an appendix to this procedure in order to ensure that the prospective employee has provided authorization for the required background check components. Any discrepancies between what is required and what has been authorized will be resolved through interaction between HR Services and the employing department. If an employee has authorized more background checks than are required for the type of employment, HR Services will only obtain the minimally required background check components and will not request any additional components.

Assuming that the authorization form is properly completed and signed, HR Services will enter the information on the prospective employee into the website or database provided for this purpose by the third-party provider. The third-party provider will initiate action on the background check components that have been requested.

When the third-party provider notifies HR Services that the background checks have been completed, HR Services will access the case file, review it, and take steps to summarize and communicate the results to the employing department. A paper copy of such communication shall be sent in a sealed envelope to the employing department. HR Services will characterize the results of the background checks according to the provisions of the section on Reporting of Results from Background Checks as set forth above.

Employment Actions Resulting from Background Checks:

All Required Background Check Components Concluded - Satisfactory Results: The policy requires that background checks be concluded prior to the commencement of employment of the subject individual. If the background check components that are the responsibility of the employing department to perform are accomplished properly with satisfactory results and present no problems, and if the background check components that are the responsibility of HR Services to perform are accomplished properly with satisfactory results (characterized as "Clear" according to the summarization scheme set forth above), then no action is taken to interrupt the proposed employment appointment. Files related to these activities are created and preserved according to the requirements of policy.

Required Background Check Component(s) Not Concluded: If one or more background check component required in policy according to the individual's type of prospective employment appointment is not concluded either at all or in a timely manner, then a hold shall be created on the employment appointment by the entity that is responsible for and is the custodian of the background check component that is missing or incomplete. It should be noted that copies of transcripts that are requested from academic institutions or copies of licenses that are requested from licensing agencies may be submitted on timetables of the institution or agency's choosing and may not mesh with the requirements of this policy and procedure. Since the prospective employee or the employing department cannot necessarily compel the institution or agency to provide the requested transcript or license, failure to provide these by the time that employment begins shall not necessarily be a bar to employment. See paragraph below on Waivers with Respect to Background Check Components.

Background Check Components Concluded - HR Services' Responsibility - Cautionary: If the background checks required for a particular category of employment that are the responsibility of HR Services to conduct are concluded properly but include cautionary results (characterized as "Cautionary" according to the summarization scheme set forth above), and if the communication to the employing department as set forth above has been accomplished, then the chief human resources officer shall confer with the administrative head of the employing department and shall agree upon action to take in the manner. They may agree upon additional inquiry the results from which may resolve and/or mitigate the cautionary nature of the background check results. Alternatively they may agree that the background check results are sufficient to contraindicate employment, and a pending offer of employment shall be rescinded. Employment as originally proposed may not be offered to an individual until issues related to a cautionary finding are resolved satisfactorily in the estimation of the chief human resources officer.

Background Check Components Concluded - HR Services' Responsibility - Problem: If the background checks required for a particular category of employment that are the responsibility of HR Services to conduct are concluded properly but include unsatisfactory results (characterized as "Problem" according to the summarization scheme set forth above), and if the communication to the employing department as set forth above has been accomplished, then the chief human resources officer shall confer with the administrative head of the employing department and shall collaborate in rescinding an offer of employment that had been tendered unless additional inquiry is conducted that resolves or mitigates the issues raised in the background check.

Time-Sensitive Action Related to Background Checks: If HR Services reports in a timely manner the results from background checks that are its responsibility to conduct according to the reporting scheme set forth elsewhere in this procedure, and if the results from a background check component is either characterized as "Cautionary" or "Problem," it is the responsibility of the employing department to respond to the communication from HR Services. If the above situation occurs, the employing department is responsible for any failure to take action with regard to a background check component characterized as "Cautionary" or "Problem."

Waivers with Respect to Background Check Components: Paragraph 10.1 of the policy provides that the President of the prospectively employing institution may waive the requirement that background checks

be concluded prior to the start of employment in certain circumstances when they deem it in the best interests of the institution to proceed to employ the individual. However, such waivers will be rare and should not be routinely depended upon. Additionally such waivers will only have the effect of delaying the conclusion of the background checking process and shall not create a permanent waiver for any particular background check component. Waivers may be granted on the basis of an agreed-upon period of time by which the background check component(s) at issue are to be resolved. However, failure to receive the particular background check component by the agreed-upon deadline shall cause a suspension of the employee without pay until such time as the issues related to such are resolved. If it is finally concluded that an academic degree offered as qualification by the employee, or prior employment experience, or a license required by the employment position is not possessed by the employee, the employing department and the chief human resources officer shall collaborate on a communication to terminate employment.

Student Background Checking Procedure:

Certain students of Marshall University may require a background check due to such circumstances as the kind of research the student performs for the University or may be due to requirements imposed by an outside organization which hosts the student for a practicum or other clinical activity. Such students may or may not be employed by Marshall University.

Students Employed by the Department of Residence Services: All students who are employed by the Department of Residence Services and assigned to work in dormitories will have a background check performed including county and federal court district criminal records and the sex and violent offender registries as described above. Such background check will be performed prior to the start of employment. Maintenance of such employment is subject to successful results on the background check.

Students of the College of Health Professions (COHP): The procedure set forth herein applies to students of the College of Health Professions (COHP). Other colleges sustaining a requirement to conduct background checks for students may follow this procedure, or that college and the chief human resources officer may collaborate on the development of procedure appropriate to that particular college. *It should be noted that the fee structure described below which is used to pay background checking fees for students of the COHP is **not** available to students in other colleges. Other colleges will be required to identify their own fund sources for the payment of background checking expenses.*

In compliance with Joint Commission on the Accreditation of Healthcare Organization (JCAHO) regulations, the College of Health Professions requires all incoming health professions major to submit to a background check prior to beginning their clinical experiences. The background check will include a variety of records checks to verify that the students does not have any criminal record which could make them ineligible for clinical experiences or prevent them from obtaining licensure as a health professional upon graduation. Students who do not pass any portion of the back ground check will be subject to further investigation which could result in their being ineligible for clinical experiences or ultimately could result in their dismissal from their health professions major.

A JCAHO-compliant background check includes the following components: (1) 10 point fingerprint check; (2) federal, state, and county criminal convictions check; (3) local records check; (4) military records check if applicable; (5) parole and probation records; (6) Social Security verification; (7) civil records – all counties, past 7 years; (8) sex and violent offender registry check; and (9) drug test.

The background check fee will be included in the matriculation fee which will be included in tuition and fees for the first semester in which a COHP student enrolls in clinical experiences. Each department within the college will designate the specific course which marks the beginning of a major's clinical experiences. Once a student enrolls in the designated health professions course the matriculation fee will be assessed.

Procedure: Student background checks will be performed through one of two methods:

Background Checks Conducted for Student by HR Services:

Students may complete and submit to HR Services in 207 Old Main the Background Check Authorization Form available on the HR Services website at:

<http://www.marshall.edu/human-resources/forms/HR-SERV-FORM-48.pdf> OR

<http://www.marshall.edu/human-resources/forms/HR-SERV-FORM-48.doc>.

HR Services will request the background check for the student from the University's Third-Party Provider. When background check results are returned to HR Services, that office will prepare and submit to the COHP Office of Student Services its form, Notification of Results of Background Check Materials, consistent with the provisions of the section below titled, Reporting of Results from Background Checks. When the Third-Party Provider invoices for the student background checks, HR Services will charge those checks to a designated budget organization and fund through the Banner Finance system.

If other authorized provider of student-initiated background checks is utilized, results may be reported directly to the student and/or to COHP. In the case of results reported to HR Services, a designated COHP representative will confer with the chief human resources officer to gain information about any student whose background check is characterized as "Cautionary" or "Problem." The representative is responsible for then conferring with the department head or his/her designee in COHP. The department head or his/her designee is responsible for making a decision with respect to whether or not to allow the student to proceed in the clinical course or clinical experience. If it is determined by COHP that the student should not participate in a clinical experience, COHP will inform the student of any results returned cautionary or problem and the decisions that were derived from that.

Student-Initiated Background Checks:

The Third-Party Provider (or other authorized provider of student-initiated background check requests) will receive lists of the names and identification numbers of students who are required to obtain a background check. Students will receive directions for logging onto the Third-Party Provider's (or other authorized provider's) website. Students will input the required information for running the background check. Background checks must be completed by the Friday before the semester begins.

Results of the background check will be reported to those external agencies who request the information. Agencies will not receive specific results – only lists of students who satisfied the background check criteria and are eligible for clinical assignments at that agency.

Confidentiality and Record Keeping: Consistent with the provisions of the section below titled Reporting of Results from Background Checks, all background check materials will be maintained in HR Services. Those materials may be in the form of electronic files. Those will not be part of the student's academic record but will be kept securely in a separate area.

Preservation of Documents:

Employing Department: Copies of transcripts and licenses and notes from checking with previous employers are maintained in the employing department in a confidential manner and are considered to be personnel and employment records within the meaning of paragraph 9.8.1 of Marshall University Board of Governors Policy GA-14, (Interim) Business Record Retention Policy, and are to be preserved for the duration of the subject employee's employment and for a 10 year period following the termination of employment. If an employee transfers or promotes to a new employing department, copies of transcripts or licenses and notes from checking with previous employers are to be transferred in a confidential

manner to the new employing department at the administrative level designated for the purpose of serving as custodian of such records.

HR Services: Results from background checks, copies of authorization forms, and summaries of background checks transmitted to employing departments will be stored and preserved in HR Services in a confidential manner in either paper or electronic form. These are considered to be personnel and employment records within the meaning of paragraph 9.8.1 of Marshall University Board of Governors Policy GA-14, (Interim) Business Record Retention Policy, and are to be preserved for the duration of the subject employee's employment and for a 10 year period following the termination of employment.

Disclaimers and Limitations with Regard to Background Checks:

Screening Multiple Job Candidates Not Allowed: Background checks may not be used to screen multiple candidates for one position with the idea being to see how the individuals fare on their background checks and possibly using the background checks to see if one or more candidates can be eliminated on the basis of negative results from the checks. Background checks can only be utilized in the case of a specific individual who has been offered employment and has accepted employment in an employment category that requires background checking (or a student who is involved in a learning activity that requires background checking). The position of the employing department is that it has committed to the employment of a particular individual if the results from the background check do not counter-indicate the employment.

Potential Weaknesses/Omissions of Third-Party Provided Information: Since certain components of the background checks will be provided by a third-party provider and since there are potential weaknesses including possible missing or incomplete data in databases and other data sources commonly consulted by organizations checking backgrounds or providing background information, HR Services cannot guarantee that an individual whose background is checked does indeed *not* have any negative information in their background. HR Services will only act upon and characterize in reports to the employing department what information it specifically receives from its authorized third-party provider.

Limitations of Ten-Year Timeframe for Background Checks: The policy requires that backgrounds be checked for the most recent ten year period. Any negative information that may be located in databases or other data sources utilized by organizations checking backgrounds that is older than ten years at the date of the background check might not be reported by the third-party provider and may fail to be considered in any characterizations of the background check provided by HR Services.

Potential Weaknesses/Omissions in State, County, Municipal, and Federal Criminal Databases: The criminal records component of background checks is based upon checking the criminal records of the counties and federal court districts in which the individual has resided during the immediate past ten year period. It is possible that a criminal conviction occurred in a county or federal court district in which the individual did not reside during the preceding ten year period. Therefore, in characterizing the results from background checks to employing departments, Human Resource Services cannot guarantee that a criminal conviction does not exist in the records of other counties or federal court districts than those reviewed in the background check process. There may also be a circumstance in which the third-party provider fails to return information from one or more of the counties or federal court districts in which the individual has resided during the ten year period preceding offer of employment at the University. For example, if the individual has resided in six counties during the last ten year period, and if the third-party provider does not return information from one of the counties, Human Resource Services will be generally unable to independently consult records of the missing county or counties or federal court district(s) and will take steps to characterize the results from the background check based only upon the actual information provided by the third-party provider.

Potential Weaknesses/Omissions in Sex and Violent Offender Registries: The third-party provider may report results from checking sex and violent offender registries for the counties and/or states in which the

prospective employee has resided for the ten years preceding their prospective employment at the institutions. As discussed above there do not yet exist comprehensive national registries for sex and violent offenders. Therefore, some sex and violent offender registries may be county based and may result in non-reportage of information in such registries about other counties or other states in which the prospective employee did not formerly or presently reside. Also, certain sex and violent offender registries may carry information about sex and violent offenders on a permanent basis. If the third-party provider returns any information about the prospective employee's name appearing on such registries for offenses that may have occurred earlier than ten years ago, the institutions shall give due consideration to the information even if it is older than ten years. In other words, a sex and violent offender registry entry older than ten years cannot be waived in making employment decisions.

Responsibility for Costs Associated with Background Checks: The prospective employee is responsible for requesting and paying for from personal funds any fees assessed for copies of academic transcripts and/or licenses as required. The employing department is responsible for any sundry telephone, postage, clerical, or other expenses that may be incurred in verifying employment. HR Services is responsible for paying for the background checks components that are its responsibility to conduct. If HR Services shall request background check components for a student - either a student employee or a student non-employee - whose employment requires such background check and if a fee shall be assessed to the student that is for the purpose of paying for a background check, then the employing department shall be responsible for paying for such background check. If a student employee or a student non-employee shall not have had such fee assessed to him/her, then HR Services shall pay for the background checks for that student.

APPENDIX A: CHART SUMMARIZING BACKGROUND CHECK REQUIREMENTS ACCORDING TO TYPE OF EMPLOYMENT.

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MU-HR-AP-14 V020109