



**Administrative Regulations
Office of the Mayor**

Title: BACKGROUND INVESTIGATIONS POLICY

A.R. Number: 4.14 **Effective Date:** 5/15/2023 Page 1 of 5

Supersedes: BACKGROUND INVESTIGATIONS **A.R.:** 4.14 **DATED:** 3/26/2021

I. PURPOSE

Background investigations ensure that applicants seeking employment with the City of Richmond do not pose a threat to themselves, other employees, or the public. For new hires and certain positions, the city conducts background investigations on candidates for employment.

This policy does not replace or control background investigation procedures already in effect for agencies/departments which have background check requirements that exceed the requirements of this policy or that may otherwise be required by law.

II. POLICY

The city complies with all state and federal laws and the Department of Human Resources (HR) shall provide specific Standard Operating Procedures (SOPs) relating to background investigations including, but not limited to:

1. Employment verifications, professional references, licensing and educational verifications, credit history, child abuse and sex offender registry checks, commercial (CDL) and other driver's licenses record verifications, criminal records search, and other pre-employment verifications required by the U.S. Department of Transportation (DOT) for those to be employed in positions under the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline & Hazardous Material Safety Administration (PHMSA).
2. Criminal conviction records and consumer credit reports shall be considered only as one aspect of the total assessment process except when the position, because of the nature of the work to be performed, must be limited to persons who have no past criminal records or have not been convicted of any related crime.
3. Background credit history reports through a consumer reporting agency, must comply with the Fair Credit Reporting Act (FCRA) of 1996.
4. The city is prohibited from requiring an applicant to disclose information concerning any arrests, criminal charges, or convictions related to now legalized marijuana offenses.
5. The city will not ask a question inquiring whether the applicant has ever been charged with, convicted, or arrested of any crime unless the inquiry takes place during or after a staff interview of the prospective employee. This clause does not apply for positions related to law enforcement agencies.



**Administrative Regulations
Office of the Mayor**

Title: BACKGROUND INVESTIGATIONS POLICY

A.R. Number: 4.14 **Effective Date:** 5/15/2023 **Page 2 of 5**

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Criminal background investigations will not be conducted on youth participants in the Mayor's Youth Academy Programs.

A. Mandatory background investigations

The following checks shall be required for new hire finalists identified in the selection and placement process for all departments that report to the Chief Administrative Officer and City Council, in addition to other departments that utilize the City's recruitment services:

1. Criminal history record checks.
2. Motor and/or CDL vehicle checks for those driving a city vehicle or requiring a CDL.
3. Pre-employment verifications for FMCSA positions for previous DOT covered employment within the last three (3) years with the completion of the *Safety Performance History Records Request* form.
4. Pre-employment inquiries for PHMSA positions to comply with all required DOT substance abuse regulations with completion of the *PHMSA Release of Information Form 49 CFR Part 40 Drug and Alcohol Testing*.

Employees who are promoted, reassigned, or transferred to certain positions may be subject to additional background investigations after initial hire.

B. Child Protective Registry (CPS) and Sex Offender Registry checks

The applicant may be subject to CPS and Sex Offender Registry checks when the position involves the performance of duties in the following categories:

1. Access (supervised or unsupervised) to children, the elderly, or disabled persons.
2. Homes for adults, licensed district homes for adults, and licensed adult daycare centers.
3. Residential facilities for juveniles regulated or operated by the Department of Justice Services and/or the Virginia Department of Juvenile Justice Services.



**Administrative Regulations
Office of the Mayor**

Title: BACKGROUND INVESTIGATIONS POLICY

A.R. Number: 4.14 **Effective Date:** 5/15/2023 **Page 3 of 5**

Supersedes: BACKGROUND INVESTIGATIONS **A.R.:** 4.14 **DATED:** 3/26/2021

C. Additional background checks

Each agency/department has the discretion to conduct additional background investigations that are deemed job-related or required by law. All departments shall be responsible for the individual costs of the background check report(s).

- D. Employees are required to inform their appointing authority/department head of changes that impact their background check status. Failure to do so may result in disciplinary action.

III. PROCEDURE

All employment offer letters may include the notation that the offer is contingent upon the successful completion of those necessary pre-employment checks as it relates to the specific position. The criminal records check, and other required checks shall occur once the selected applicant has accepted the contingent offer for the position.

HR shall receive all background investigation reports. It is HR's duty to determine eligibility for hire based on all the information obtained in the application and pre-employment process. The assigned departmental HR representative will be notified of the employment eligibility determination.

A. Criminal Background Check

Each applicant offered contingent employment shall be required to submit to fingerprinting and to execute a completed Release of Information form to be forwarded through the Virginia State Police/Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. An applicant's failure to submit a completed form or complete all information truthfully shall result in the applicant being ineligible for employment.

B. Credit History Check

The applicant must complete an Applicant Release and Authorization form when a credit history report is required authorizing the city to obtain a consumer report for employment purposes.

All background investigation information shall be maintained in accordance with applicable retention laws and with the strictest level of confidentiality. The assigned departmental HR representative and management shall not be provided with copies of the background investigation unless needed to support a grievance or legal action.



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Title: BACKGROUND INVESTIGATIONS POLICY

A.R. Number: 4.14 **Effective Date:** 5/15/2023 **Page 4 of 5**

Supersedes: BACKGROUND INVESTIGATIONS **A.R.:** 4.14 **DATED:** 3/26/2021

IV. RESPONSIBILITY

Department of Human Resources (HR) – HR is responsible for oversight and administration of this policy. HR is the central repository for all personnel files and information. HR shall make available all necessary procedures and forms to departments and employees and provide guidance when questions arise.

Appointing Authority / Department Head – Appointing authority/department head or designee is responsible for conducting applicable background investigations that exceed the requirements of this policy, and for informing HR of any and all background investigation information for all employees.

Employee – Employees are responsible for abiding by the requirements and processes of this policy. Employees are responsible of notifying the employer of changes that impact their background check status. Failure to do so may result in disciplinary action.

V. DEFINITIONS

Applicants - Individuals applying for employment directly with the city, through a temporary employment agency or through the job-readiness program with the Office of Community Wealth Building. Volunteers, unpaid interns, and current employees who apply to a position resulting in a lateral transfer or promotion are also considered as applicants for the purpose of this policy.

Child Care Services – Child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. (42 U.S.C. §13041 (a) (2))

Consumer Reporting Agency – Any person or entity, which for fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (15 U.S.C. §1681 a (f))



**Administrative Regulations
Office of the Mayor**

Title: BACKGROUND INVESTIGATIONS POLICY

A.R. Number: 4.14 **Effective Date:** 5/15/2023 **Page 5 of 5**

Supersedes: BACKGROUND INVESTIGATIONS **A.R.:** 4.14 **DATED:** 3/26/2021

VII. REGULATION UPDATE

Modifications to this policy shall be the responsibility of the Department of Human Resources under the advisement of the Chief Administrative Officer.

Approval


CHIEF ADMINISTRATIVE OFFICER


MAYOR