

## BACKGROUND CHECKS AND CRIMINAL HISTORY

### **I. Purpose**

The purpose of the policy is to ensure that Western Dakota Technical College (WDTC) is a safe and secure environment for all constituents, including employees, students, and visitors.

### **II. General Statement of Policy**

- A. WDTC is committed to the selection of quality employees and volunteers to provide a safe environment for all constituents. As part of that commitment, any offer of employment, including student workers, is contingent upon clear results of a thorough background check. Background checks will be conducted on all final candidates and may include:
  - 1. Social Security Verification: validates the applicant's Social Security Number for I-9 reporting.
  - 2. Personal and Professional References: individuals listed as references by the applicant may be contacted. Places of previous and current employment may also be contacted with consent from the candidate.
  - 3. Educational Verification: official transcripts will be requested when required for the position to confirm the degree/diploma received.
  - 4. Criminal History: to include a review of criminal convictions and probation. The following factors will be considered for applicants with a criminal history:
    - a. The nature of the crime and its relationship to the position.
    - b. The time since the conviction.
    - c. The number of convictions.
    - d. Whether hiring the applicant would pose an unreasonable risk to WDTC and its constituents.
  - 5. Motor Vehicle Records: provides a report on an individual's driving history to determine the individual's ability to operate or instruct with a WDTC fleet vehicle.
  - 6. Financial Background Checks and Credit History: may be utilized for positions that involve management of WDTC funds and/or handling of cash or credit card.
- B. Current employees who are arrested for or charged with a crime, including felonies and gross misdemeanors, or whose supervisor receives credible information regarding possible criminal acts, and the crime or possible crime is related to the employee's position may be subject to a background check, suspension, or termination.

- C. In respect to the requirements set forth in the South Dakota Division of Criminal Investigation (SDDCI) User Agreement and Guide for Noncriminal Justice Agency, WDTC and its employees will:
1. Comply with state and federal laws, rules, procedures, and policies regarding the receipt, use, and dissemination of criminal history record information of any individual. WDTC employees, officers, and agents will only obtain Criminal History Record Information (CHRI) when authorized by law and will only use CHRI, or the personally identifiable information first obtained by WDTC in CHRI, for the purposes of determining whether a person is eligible to be employed by WDTC.
  2. Appoint individuals to fulfill the necessary roles outlined in the SDDCI User Agreement.
    - a. The WDTC President is designated as WDTC's Agency Representative and is responsible for signing the SDDCI User Agreement on behalf of WDTC.
    - b. The Senior Human Resources Generalist is designated to be WDTC's Point of Contact (POC) and Noncriminal Agency Coordinator (NAC).
    - c. The Vice President for Institutional Effectiveness and Student Success is designated to be WDTC's Local Agency Security Officer (LASO).
  3. Establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of criminal history records. This includes the appropriate review, storage, and destruction of documents containing CHRI.
  4. Retain audit records for a minimum of three (3) years.
  5. Track information security incidents and promptly report to SDDCI utilizing the SDDCI Security Incident Reporting Form.

### **III. Definitions**

- A. Agency means WDTC.
- B. Agency Representative means the designated WDTC employee with the authority to sign the SDDCA User Agreement.
- C. Criminal History Record Information means a criminal history of an individual obtained through the South Dakota Division of Criminal Investigation (SDDCI) and/or the Federal Bureau of Investigation (FBI) using the individual's fingerprints. CHRI includes information on the arrest, detention, complaint, indictment, or former criminal charge of an individual as well as the disposition of any charges.
- D. Felony means a crime, typically one involving violence, regarded as more serious than a misdemeanor, and usually punishable by imprisonment for more than one year.

- E. Gross Misdemeanor means a crime which is more serious than a regular misdemeanor, but is still classified as a minor crime, as opposed to serious crimes. Such crimes may include petty theft, simple assault or driving under the influence of alcohol and/or other drugs. Typically, the maximum sentence is one year in county jail and/or \$5,000 in fines.
- F. Local Agency Security Officer (LASO) means the designated WDTC employee who acts as liaison with SDDCI to ensure the agency is in compliance with security procedures.
- G. Noncriminal Agency Coordinator (NAC) means the designated WDTC employee who acts as the primary contact for that agency, serving as a liaison between the agency and SDDCI. This individual is also responsible for ensuring that all employees are current on training and assists SDDCA personnel in the audit process.

**IV. Reporting Procedures – None**

**V. Dissemination of Policy and Training**

- A. This policy shall appear on the WDTC website on the policy page.
- B. WDTC will require all employees who have access to Criminal History Records Information (CHRI) be trained by the South Dakota Division of Criminal Investigation (SDDCI) on the rules and responsibilities to ensure confidentiality safeguards.

**Legal References:**

SDCL 13-10-12 – Criminal background investigation – Prospective employees, technical college instructors, and student teachers – Temporary employment pending results.

SDCL 13-10-13 – Criminal conviction as a factor in hiring decision.

SDCL 13-10-16 – Conviction defined.

U.S.C., Title 5, Section 552a – Records maintained on individuals.

Board Approved 07/11/2019; Board Approved 6/8/2022; Committee Reviewed 7/9/2024