

BACKGROUND CHECKS	POLICY	
	Document Number:	AS-ES-PL-3600
	Version Number:	02

1.0 Purpose:

To safeguard VTA's customers and employees and protect VTA's assets.

2.0 Scope:

This policy applies to all VTA employees and applicants for employment (including student interns, extra help, volunteers, and contract employees when it is determined appropriate in light of the circumstances under which they will be working at VTA).

3.0 Responsibilities:

- 3.1 All covered individuals shall be fingerprinted prior to employment or re-employment. Applicants shall be required to disclose arrest and conviction information as described below. Applicants for positions that require driving as an essential function shall provide a current (within 15 days) DMV printout as part of the appointment process.
- 3.2 Human Resources shall screen all employment applications for information regarding criminal convictions and shall review criminal record information provided by Protective Services for compliance with this Policy. Human Resources shall screen the DMV printouts of applicants for positions that require driving as an essential function.
- 3.3 Protective Services shall act as liaison between the Santa Clara County Sheriff's Department and VTA, and shall communicate the results of the background check to the manager of the Human Resources Department upon receipt.

4.0 Policy:

- 4.1 VTA shall not consider a person eligible for employment/continued employment if they have been convicted of a violent or serious felony or misdemeanor within the timeframes listed below, except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment in question. To do so, VTA shall obtain and review criminal record information from California and Federal agencies regarding job applicants and shall disqualify those applicants whose criminal history could compromise the safety of VTA employees, customers, affiliates, or VTA's assets. Criminal record information shall be available only to those charged with determining the suitability for employment/continued employment, and shall be used solely for this purpose. VTA shall comply with all laws of the State of California and the requirements of the California Department of Justice when obtaining and using this information.
- 4.2 The Application for Employment shall require applicants to disclose and provide a detailed explanation of the circumstances for:
 - a) all felony convictions
 - b) any misdemeanor convictions in the last 10 years (from the date of the Application for Employment).

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- c) any arrests for which they are currently out of jail on bail or on their own recognizance.
- d) any arrests, convictions, or moving violations (as requested, based on the nature of their position) that occur from the date of application through the date of appointment.
- e) any convictions, similar to those listed above, that occurred during their military service.

Applicants need not disclose information regarding:

- a) arrests or detentions that have been adjudicated or dismissed and did not result in a conviction;
- b) marijuana convictions (except for convictions for the possession of marijuana on school grounds or possession of concentrated cannabis) that are more than two years old;
- c) convictions that have been dismissed pursuant to Penal Code §1203.4a;
- d) information regarding participation in any pretrial or post-trial diversion programs.

If provided by the applicant, this information shall not be considered by VTA when making decisions regarding hiring, promotion, termination, or participation in any training program leading to employment.

- 4.3 In determining if a conviction is disqualifying, VTA shall consider the following to determine whether there is a nexus between the crime that was committed and the capacity in which the person will be working:

A. The Offense. The nature, severity and intentionality of the offense(s) including but not limited to:

1. The statutory elements of the offense (rather than the individual's account of the facts of the offense);
2. The individual's age at the time of the offense(s);
3. Number and type of offenses (felony, misdemeanor, infraction, traffic,);
4. Time elapsed since the last offense;
5. The individual's probation or parole status;
6. Whether the circumstances arose out of an employment situation;
7. Whether there is a pattern of offenses; and
8. Whether any mitigating circumstances exist.

B. The Position. The duties, responsibilities and circumstances of the position applied for, including but not limited to:

1. The nature and scope of the position's public or other interpersonal contact;

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2. The nature and scope of the position's autonomy and discretionary authority;
3. The amount and type of supervision received in the position or provided to subordinate staff;
4. The sensitive nature of the data or records maintained or to which the position has access;
5. The opportunity presented for the commission of additional offenses; and
6. The extent to which acceptable job performance requires the trust and confidence of the employer or the public.
7. Direct access to, or control over, cash, checks, credit card account information;
8. Authority to commit VTA financial resources;
9. Control over VTA business processes, either through functional roles or systems security access;
10. Access to detailed personally identifiable information about customers, staff, or others that might enable identity theft;
11. Possession of building master or sub-master key access;
12. Regular operation of VTA vehicles as part of assigned job duties.

In determining if a driving infraction is disqualifying, VTA shall consider the number, type, and recency of convictions.

- 4.4 The Employment Application shall include a requirement that all convictions and arrests, as described above, shall be disclosed on the Employment Application. The Employment Application shall include a statement that failure to list all such information shall result in mandatory disqualification of applicants and shall subject employees to immediate discharge.
- 4.5 Human Resources shall review all Employment Applications to determine if the Applicant has been convicted of a disqualifying driving or criminal offense(s). If so, the Applicant shall be notified that they have been disqualified from continuing in the selection process.
- 4.6 Human Resources shall ensure that all employees are fingerprinted prior to their initial employment and again upon rehire (including recall/reinstatement), unless they have been separated from employment for less than 90 days. Human Resources shall ensure that applicants for positions that require driving as an essential function provide a current DMV printout.
- 4.7 Applicants may be employed pending the results of the background check. Applicants shall sign an acknowledgement that, should the background check reveal a discrepancy with the information disclosed by the applicant on the Employment Application, they shall be subject to immediate discharge.
- 4.8 Arrest information and DMV information regarding current employees shall be reviewed to determine if the crime is one for which an applicant for employment would be disqualified. If so, the information shall be forwarded to Employee Relations for an evaluation as to

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whether the commencement of an investigation and possible disciplinary action is warranted.


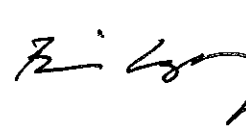
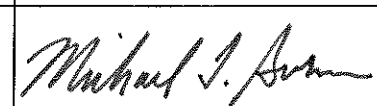
5.0 Definitions:

N/A

6.0 Summary of Changes:

This Policy was revised to shorten the length of time that applicants must disclose criminal conviction information for misdemeanors, revised to clarify that DMV information is reviewed and considered as part of the background investigation process for certain positions, and to clarify that Applicants shall be required to disclose any similar convictions that occurred during their military service. The Employee Relations review of arrests was included in the Policy (it was formerly only in the Work Instruction).

7.0 Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Shellie Albright Human Resources Manager	 Bill Lopez Chief Administrative Officer	 Michael T. Burns General Manager

2-15-11
Date Signed