

FAYETTEVILLE STATE UNIVERSITY

EMPLOYMENT BACKGROUND CHECKS

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| Authority: | Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor. |
| Category: | Employment – General |
| Applies to: | ●Administrators ●Faculty ●Staff |
| History: | Revised – April 22, 2022 Revised – August 18, 2010 First issued-- July 1, 2007 Approved-- April 16, 2007 |
| Related Policies/ Regulations/Statutes | ●Non-Discrimination (Policy Statement) ●Protection of Minors on Campus ●Recruitment and Selection of Senior Academic and Administrative Officers and Other EHRA Non-Faculty Employees ●Pre-Employment Background Checks [UNC Policy #300.8.7[R]] ●Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. |
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I. PURPOSE

Fayetteville State University (University) is committed to ensuring the safety and well-being of its employees, students and visitors. In an effort to uphold a safe work and learning environment, the University will conduct employment background checks on Finalists for all positions as a condition of their employment.

The purpose of this policy (Policy) is to set forth the requirements for conducting employment background checks and to ensure that such checks will not be used to discriminate on the basis of any of the Protected Classes outlined in the University's Nondiscrimination Policy.

II. DEFINITIONS

The following definitions are applicable to this Policy.

- **Charge** means an accusation of a crime by a formal complaint, information, or indictment.
- **Conviction** means a guilty verdict, guilty plea, or a “no contest,” nolo contendere, or Alford plea, or any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. For employees who drive

a dedicated State or University vehicle as part of their job, or to whom a State vehicle is provided to for the purposes of conducting University business, suspension or loss of driving privileges will also be considered a Conviction for purposes of this regulation.

- **Employment Background Checks** consists of any or all of the following checks/verifications:
 - Credit History (for positions with financial responsibilities)
 - Criminal History (including a sex offender registry's check)
 - Education Verification
 - Employment History Verification
 - License Verification (including motor vehicle licenses)
 - Professional Reference Check

- **Finalist** means any individual (including an employee) selected by the Hiring Manager to fill a position within the Hiring Manger's unit.

- **Hiring Manager** means the head (e.g., department chair, director) of the academic or administrative unit where the selected Finalist will work.

III. COVERED INDIVIDUALS

A. Finalists

Employment Background Checks shall be conducted on Finalists for any University employment position in accordance with the process described in Section V.

B. Current Employees

Current employees, whether full- or part-time, permanent, temporary or time-limited, who change positions at the University due to a promotion or who assume new duties that cause the current position to become appropriate for Employment Background Checks will be subject to such checks. This includes all categories of employees. However, Employment Background Checks are not required for faculty members being considered for reappointment, promotion or tenure.

Current employees who supervise minors under the age of 18 (other than enrolled students) will be subject to periodic Criminal History Checks.

Current employees are required to report a criminal conviction to their immediate supervisor within five (5) days of the conviction. The immediate supervisor shall notify the HR Employee Relations Manager within five (5) days of receiving such information. The HR Employee Relations Manager shall provide the information to the General Counsel and Vice Chancellor for Legal, Audit Risk and Compliance (LARC) so that a background check can be conducted. A review of the employee's suitability for continued employment will be conducted in the same manner as that of a Finalist.

IV. PROCESS FOR CONDUCTING CHECKS AND VERIFICATIONS

A. Criminal History Check

A Criminal History Check will be conducted before the Finalist begins employment; however, if necessity demands employment prior to the time frame in which the Criminal History Check can be obtained, employment will be contingent on findings that are satisfactory to the University. The Finalist shall waive any right to challenge this requirement.

1. Notification and Authorization

A Finalist will be informed of the University's intent to conduct a Criminal History Check once the Hiring Manager notifies the Office of Human Resources of the Finalist selection. The Criminal History Check will be performed by a third-party vendor selected by the University once the Finalist completes and signs a disclosure form authorizing the third-party vendor to disclose the results of the Criminal History Check to the University.

2. Minimum Information to be Included in Criminal History Checks

All Criminal History Checks must include, at a minimum the following:

- A coverage period of no fewer than seven years as of the date of the check or until age 18 if the Finalist is younger than 25 years old or as required by external, affiliated programs;
- A federal criminal history;
- Applicable criminal history for all local and state jurisdictions in which a Finalist has previously lived within the time period of the check;
- A check of the national sex offender registry, and,
- A federal System for Award Management (SAM) and Office of Inspector General debarment check (for designated positions).

B. Employment and Education Verifications

Once a Finalist for a position has been selected, the Hiring Manager shall review the candidate's application and verify the candidate's employment history and educational credentials.

1. Employment Verifications

The Hiring Manager shall verify all employment during a period of at least ten (10) years immediately preceding the date the Finalist applied for the applicable position. If the Finalist has not been employed for at least ten (10) years prior to applying for the applicable position, then verification shall include all of the positions that the Finalist has held.

2. Education Verifications

The Hiring Manager shall verify all educational credentials that are significantly related to the position qualifications. Credentials may include, but not be limited to degrees awarded, professional licenses, registrations and certifications. All degrees awarded must be from accredited institutions of higher education.

3. Reference Checks

The Hiring Manager is responsible for contacting references to obtain information on the candidate's work performance and on characteristics that affect (positively or negatively) the candidate's suitability for the particular position sought.

- a. **Current and Former Supervisors.** The Finalist will be required to provide the names of current and former supervisors and any other persons who would have knowledge of the candidate's job performance and ability. If the Finalist objects to the hiring manager contacting the current supervisor, the Finalist will no longer be considered as a candidate for employment.
- b. **Personal References.** Personal or "character" references provided by the Finalist may be contacted. However, the University is more interested in work related references that have knowledge of the candidate's job performance and ability.

4. Written Records

A written record of the employment and educational verification(s) and of the reference checks shall be made and maintained in the Finalist's personnel file. At a minimum, the record should include the following:

- the date of the verification, the method of verification,
- the name of the official requesting the verification, and
- the name of the person or entity responding to the request.

Copies of any documents obtained as a result of the verification process shall also be a part of the Finalist's personnel file.

C. Prior Employment Background Checks

If the University has performed Employment Background Checks on a Finalist within the past year, a new verification or check of that specific category will not be required. The results of the previously performed Employment Background Check will be considered in any pending employment decision.

V. CRIMINAL HISTORY CHECK ASSESSMENT

A. Review by Designated Individuals

To ensure consistency of application across the University, the authority and responsibility for a final employment decision based upon an adverse Criminal History Check lies with the General Counsel or Associate General Counsel (Designated Individuals). If a Finalist's criminal history report reveals information deemed relevant to the Finalist's appropriateness as an employee of the University, the Designated Individuals may consult with the hiring manager.

B. Assessment of Adverse Results

Employment decisions must not be based on the criminal history of a candidate unless that criminal history is demonstrably job-related and consistent with business necessity associated with the position, or unless state or federal law prohibits hiring an individual with certain criminal convictions for a particular position.

Thus, a candidate's expunged or pardoned convictions, pending charges, arrests not resulting in a conviction, or charges resulting in dismissal or not guilty, even though separate and apart from a specific judicial status or disposition, are prohibited from consideration; except that, the University may consider a candidate's documented conduct incidental to an arrest (including matters that remain pending) if the conduct is demonstrably related to the position's responsibilities or access to University resources.

When making a final employment decision, the Designated Individuals shall consider the following factors, consistent with the U.S. Equal Employment Opportunity Commission *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions*¹ under Title VII of the Civil Rights Act¹, and any guidance provided by the North Carolina Office of State Human Resources and the UNC System:

- The relationship of the conduct to the specific job duties and responsibilities that would be performed by the Finalist, if appointed;
- The nature, gravity, and context of the events surrounding the conduct, as evidenced by the results of the Criminal Records Check and any supplementary information that can be obtained by the University or that is promptly provided by the Finalist;
- The time that has elapsed since the conduct occurred and/or the completion of any sentence served;
- The Finalist's demonstrated behavior since any conviction and the future potential for illegal activity by the Finalist, as might be inferred from a past pattern of conduct; and
- Any other extenuating circumstances documented by the Finalist or otherwise known to the University (e.g., the age of the Finalist at the time of the conduct, the totality of the circumstances).

¹ See [Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#).

C. Non-Selection Determination

If a Criminal History Check results in a non-selection decision, the Finalist shall be provided with a reasonable opportunity to explain the circumstances surrounding their relevant conviction(s) and/or charge(s) and provide any proof of rehabilitation, including a certificate of relief.

D. Federal Fair Credit Reporting Act (FCRA)

The University will comply with all requirements of the Federal Fair Credit Reporting Act (FCRA) to include the following:

- providing Finalists with access to the results of their Criminal History Check, unless the act of sharing the Criminal History Check is prohibited by state or federal law;
- notifying Finalists of any results from their criminal or credit history check that are determined to have had an impact on the Finalist not being selected;
- providing the Finalist with the opportunity to receive and respond to such results; and
- providing the Finalist with a summary of the Finalist's rights.

VI. ASSESSMENT OF OTHER EMPLOYMENT BACKGROUND CHECKS

The Hiring Manager shall evaluate the information obtained from other Employment Background Checks to determine the Finalist's suitability for employment.

VII. FALSIFICATION OF EMPLOYMENT APPLICATION

Falsification of an application for employment or willful omission, concealment, or falsification of information may lead to being disqualified from being considered for employment or if a current employee, disciplinary action, up to and including dismissal. If it is determined that such has occurred, the Hiring Manager should consult with LARC to determine if there exist sufficient grounds to discontinue any employment consideration or take disciplinary action against a current employee.

The University reserves the right to review previously completed background checks for a subsequent position or appointment to ensure consistent information has been provided by the individual.

VIII. CONFIDENTIALITY AND RECORD KEEPING

Under North Carolina law, records pertaining to an individual's application and selection are considered confidential personnel documents not subject to public release; thus, the results of all Employment Background Checks are to be considered a part of the individual's personnel file and shall be kept confidential. Any information released to an individual shall be in accordance with State law and the FCRA.

Records pertaining to Employment Background Checks shall be retained in accordance with the State of North Carolina and the UNC System's records retention and disposition schedule.