Background Checks for Students and Employees:

Should you and, if you do, how do you comply with the law?

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Introduction

Outstanding professor. Students praise him. Colleagues respect him. All reviews point toward tenure. He is a respected member of the communities where he has taught. He is ... a triple murderer out on parole and employed by one of the top universities in the United States. True or false? By now, most of us know this is a true story.³ Professor Paul Eric Krueger taught in higher education for nearly ten years before it was discovered in 2003 that he had been convicted of a triple homicide in the State of Texas as a teenager.⁴ At the time of the discovery, Penn State University did not require background

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³ “Penn State Professor Murdered 3 in 1965,” The Post-Gazette, July 26, 2003
checks of its professors.\footnote{5} However, even if Penn State did and
the check revealed a homicide more than 25 years old, what could
Penn State do and/or should Penn State have done with that
information?

Highly publicized events like the one involving Professor
Krueger, the tragic events of September 11, 2001, and the
increase in the justice system’s willingness to expand
employers’ liability through negligent hiring and retention
lawsuits are changing the way the United States conducts
business. Gone are the days of submitting a resume, having the
potential employer call one of your references, and then offer
you the position. No, included in this “security” movement is
the burgeoning background check industry where employers can
obtain a variety of information including criminal records,
employment history, academic credentials, social security
verification, credit history, and previous residences. Couple
this with the increasing availability of personal information
and public records via the Internet, and employers have a
multitude of information beyond the resume on potential hires
and current employees. But, is more necessarily better?

Presently, unless required by federal or state law, or
unless an employer utilizes the services of an outside consumer
reporting agency, employment-related background checks are
virtually unregulated. That is, employers have practically
unfettered control over what to check, how to check, and how to
use the information obtained in the check.\footnote{6} As discussed above,

\footnote{5} “Background checks rile professors,” \textit{Christian Science Monitor}, Mary Beth

\footnote{6} The employer must still conform with other employment-related laws, i.e.,
Americans with Disabilities Act, in its hiring decisions and the use of a
employers are feeling the pressure to conduct background checks for a variety of reasons. Consequently, employees and potential employees are feeling the pressure to ensure that background checks are regulated and administered “fairly.” Even the American Association of University Professors has agreed that a need for background checks exists but, like many others, also cautions against leaving this industry unchecked.\footnote{See “Verification and Trust: Background Investigations Preceding Faculty Appointment” available at \url{http://www.aaup.org/statements/REPORTS/background.htm}} Because of the availability of information and advances in technology, background checks have become relatively inexpensive and widely available. So, should your university conduct background checks? Which background checks should it conduct and why? Should the university conduct them “in-house” or should they outsource this process? Is your university’s current background check policy and/or practice consistent with the law?

Universities should consider what percentage of their overall operating budgets is spent on “human capital,” i.e., salary, benefits, training, recruiting, and retention. After obtaining a true and accurate picture of this figure, the university should then look at what percentage of time it actually spends on this issue in comparison to other line items in its budget – did your university spend more time deciding which vendor would service the cafeteria than it did on hiring issues? Furthermore, universities should consider the economic ramifications of a bad hire: “staffing industry sources estimate the cost of a single bad hire can range from twice the yearly salary to a much higher multiplier depending upon the position.”\footnote{The Safe Hiring Manual. Lester S. Rosen, Facts on Demand Press, 2005, at pg. 17.}

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background check in a discriminatory manner may subject an employer to legal action by the employee.
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With background checks becoming more readily available and more widely used, this article will assist university administrators in determining whether or not to do background checks, which background checks are “best” for the university, how to implement policies surrounding background checks, whether those checks are being properly carried out, and how the university can remain in compliance with the law surrounding background checks. This article will explore background checks with regard to employees, potential employees, students, and potential students of the university including the differences and similarities amongst these groups.

EMPLOYEES AND POTENTIAL EMPLOYEES

To Conduct or Not to Conduct Background Checks?

Unless mandated by law, should a college or university conduct background checks on its employees and/or potential employees? There are several arguments in favor of and against doing so. On the “pro” side of the debate, is the increase in our justice system’s propensity to impose liability on employers for negligent hiring/retention; the terrorist attacks of September 11, 2001 heightened awareness of security concerns within our borders; recent resume scandals including reports that nearly 70% of all resumes include false or inaccurate information; and workplace safety issues arising under the

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9 Many state laws require background checks on any individual who will perform work with the elderly, infirm, or children.
11 Notre Dame’s hiring of George O’Leary - gaffes on resume cite (locate).

In determining whether to conduct or not to conduct background checks on this group of individuals, universities must consider these factors. Therefore, we review each of these factors in more detail below to assist administrators in evaluating these issues.

**Negligent Hiring and/or Retention:** “One of the fastest growing areas of tort litigation involves the imposition of liability upon third parties for intentional or criminal acts committed by one person against another. Collateral liability for the intentional or criminal acts of another is premised on the theory that situations arise where an individual or organization owes a duty to victims of such acts to protect them from harm of this nature. This duty arises out of the relationship between the victim and the person or organization held liable.”

“For a plaintiff to recover damages for injuries on the ground that an employer has hired or retained an unsafe or incompetent person who committed intentional or criminal acts upon the plaintiff while working for the employer, the injured person must establish a duty owed by the employer to him, the

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13 OSHA imposes a general duty on employers to provide their employees with a safe work environment, which includes a workplace free from violence.
14 “Reference and Background Checking on Prospective Employees: Strategies to get Good Information without Infringing on Privacy and Civil Rights,” SG005 ALI-ABA 145, 147 (March, 2002).
16 Negligent Retention and Hiring of an Employee, 29 Am. Jur Trials 267
employer's breach of that duty, causation, and damages. The negligent hiring and negligent retention doctrines recognize that an employer has a duty to use reasonable care in the selection and retention of employees. This duty requires that an employer hire and retain only safe and competent employees. An employer breaches this duty when it hires or retains employees that it knows or should know are incompetent." An employer’s best defense to this type of lawsuit is to demonstrate that it exhibited reasonable due diligence in the hiring of the employee, i.e., conducting professional and educational reference checks.

September 11, 2001: The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) introduced a plethora of legislative changes which significantly increased the surveillance and investigative powers of law enforcement agencies in the United States. In the aftermath of 9/11, our nation has been willing and unwilling participants in a reduction of individual civil liberties in exchange for tighter national security. Whether right or wrong, this is a reality that employers and employees must face, accept, and understand. In many ways, the aftermath of 9/11 has set the table for the background check industry.

Resume Scandals: The most publicized resume scandal may have been that of George O’Leary, the coach of the University of Notre Dame’s storied football program for a very short tenure.19

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17 Negligent Retention and Hiring of an Employee, 29 Am. Jur Trials 267
18 http://www.epic.org/privacy/terrorism/hr3612.html
Then, in 2002, it was determined that the CEO of Bausch & Lomb had lied on his resume about receiving an MBA from Stern School of Business at New York University, which, coincidentally, is also where Mr. O’Leary claimed to have earned an advanced degree.\textsuperscript{20} In April 2003, it was learned that the State of California’s Poet Laureate and esteemed professor at the University of California San Diego had lied about earning a degree.\textsuperscript{21} As stated by the Society for Human Resource Management, “hiring employees based on such misinformation presents clear, potential risks for HR professionals and their companies.”\textsuperscript{22}

**OSHA Concerns:** “Section 5(a)(1) of [OSHA], often referred to as the General Duty Clause, requires employers to ‘furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees’.

Section 5(a)(2) requires employers to ‘comply with occupational safety and health standards promulgated under this Act’.”\textsuperscript{23}

According to the Occupational & Safety Health Administration, “[s]ome 2 million American workers are victims of workplace violence each year.”\textsuperscript{24} The Occupational & Safety Health Administration defines workplace violence as “violence or threat of violence against workers. It can occur at or outside the

\textsuperscript{23} \url{http://www.osha.gov/SLTC/workplaceviolence/standards.html}, October 5, 2005.
workplace and can range from threats and verbal abuse to physical assaults and homicide, one of the leading causes of job-related deaths.\textsuperscript{25} Though there are relatively few case decisions regarding workplace violence issued by OSHA Administrative Law Judges or the U.S. Occupational Safety & Health Review Commission\textsuperscript{26}, precedent does exist and the law is written broadly enough to provide universities with exposure to complaints and penalties under OSHA.

\textit{Invasion of Privacy Concerns:} Most state statutes provide recovery in tort for invasion of privacy concerns. Under these state statutes, universities run the risk of litigation by conducting background checks in a manner that runs afoul of these provisions. A university that mishandles the information that it has obtained, i.e., does not protect the data from others, can also subject itself to invasion of privacy lawsuits. Generally, the university may be subject to an invasion of privacy lawsuit if it “intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns where the intrusion would be highly offensive to a reasonable person.”\textsuperscript{27} Universities must be aware of state law provisions for invasion of privacy and consider these provisions in determining whether or not to conduct background checks and in developing their related policies.

\textit{Discrimination Concerns:} The Equal Employment Opportunity Commission ("EEOC") enforces discrimination laws in the United States, which prohibit biases based on race, religion, color, national origin, sex, disability, and age. Unfortunately,

\textsuperscript{25} Id.
\textsuperscript{26} See e.g., Secretary of Labor v. Megawest Financial, Inc., OSHRC Docket No. 93-2879, June 19, 1995.
\textsuperscript{27} Restatement (Second) of Torts, §652A-B, 1997.
discrimination remains a persistent problem in this country and employers must be careful to implement policies and practices that are neither facially discriminatory or have a disparate impact on a select group. Therefore, though it is perfectly acceptable for universities to carefully screen employees and potential employees, no matter what their nationality and background is, it is not acceptable for the university to ONLY screen certain groups of people, i.e., conduct background checks only on individuals of Middle-Eastern descent, or to have policies that result in a disparate impact, i.e., blanket prohibition against hiring any individual with a prior criminal conviction. Rather, employers should continue to adhere to the EEOC’s Uniform Guidelines on Employee Selection Procedures (1978). The tenet of that guidance is an employer must treat all individuals across the board in a like-minded manner. For example, all professors can be subject to background checks, but the university cannot implement a policy that requires background checks to be performed only on black employees or applicants. Furthermore, the EEOC has specifically stated that an employer cannot deny an individual’s employment based solely on a criminal conviction if that conviction is not reasonably related to the individual’s ability to complete the tasks of the position. How then does an employer balance the totality of EEOC guidance against the increasing risk of negligent hiring litigation? Any policy developed by the university will need to walk this fine line.

**Double-Jeopardy Concerns:** Query whether Professor Krueger’s triple homicide conviction from 1965 renders him unqualified to teach at any university in the United States. If an individual

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28 29 CFR §§1607.1 et seq.
is convicted of a crime and the individual serves his sentence for that crime, should the individual be subject to further penalty through his inability to obtain employment? Should the university provide the individual with a second chance and, in so doing, expose itself to potential liability for hiring a known criminal with a propensity for danger (even if that danger is “unrelated” to his position)? This article will not explore the social implications of such concerns, but only makes reference to these concerns to demonstrate the difficulty that awaits university administrators as they struggle with the decision of whether or not they should conduct background checks and what they should do with information once they obtain it.

Accuracy Issues: The amount of information available to employers and consumer reporting agencies means that employers can conduct background checks on several issues including, but not limited to, criminal history, education history, state licensing records, credit history, social security number verification, and work history. The problem is whether or not the information contained in these reports is accurate. Often background checks will only check an individual’s history over the last 5-10 years (which, in the case of Professor Kreuger, may not have revealed his criminal past). Furthermore, if an individual has changed names, moved several times, or been the victim of identity theft, information may be incorrect, missed, or overlooked. Employee advocacy groups cite this as the primary reason, even above invasion of privacy, for employers to not conduct background checks or, in the alternative, to at least provide the employee with an opportunity to review and correct any misinformation contained therein.

29 Consumer reporting agencies are generally those companies that conduct background check services for a fee.
State Law Concerns: There are several states that have stricter guidelines effecting background checks conducted by third parties. Universities must be aware of whether their state has background check provisions in the law and be sure that any program designed to implement background checks takes these provisions into account.

Once the university has considered these difficult issues on both sides of the debate and has determined that it will conduct background checks, it must then take two additional steps: (1) determine which background check is best for the university and the position offered; and (2) develop a clear and consistent written policy for the implementation and use of such checks.

Which background checks are “best” for the university?

The first step in this analysis is whether the university will conduct the background check on its own or whether the university will hire an outside agency that specializes in conducting background checks. As we have briefly discussed, there is a myriad of information available and obtaining the right or enough information requires a substantial investment in resources. Most universities simply do not have the manpower to dedicate to conducting background checks in-house. But, as will be discussed below, there are some advantages and disadvantages to conducting the background check in-house as opposed to outsourcing this important function.

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Unfortunately, the authors neither had the time nor the space to complete a 50-state survey regarding state background check laws. Therefore, universities should check with their local counsel regarding a particular state’s legislation in this area.
What information should the university obtain? What information is relevant? Providing the best lawyers’ answer that we can - it depends. Generally, the best advice is, regardless of what information the university obtains and from whom the university obtains this information, be sure to obtain the same information on all similarly classified employees. Consistency is the key to avoiding discrimination lawsuits and an air of impropriety. Second, only obtain as much information as is required by the position. For example, if an individual will not be responsible for utilizing university-owned vehicles and transporting staff, faculty, or students, then it would seem excessive to obtain driving histories of all applicants and employees for these types of positions. If the individual will have access to students, financial records, or other sensitive items, then criminal background checks may be warranted for these positions. Finally, if the position requires a degree and/or experience, then the university should check the education records, work history, and references of the employee and/or applicant.

Determining what information should be included in a background check can bring other laws into the fold as well. For example, if an employer chooses to conduct social security verifications as part of the background check, the employer has either knowingly or unknowingly brought the Immigration Reform and Control Act of 1986 (“IRCA”)\(^{31}\) into the equation. IRCA was passed to control unauthorized immigration to the United States.\(^{32}\) Employer sanctions and increased appropriations for enforcement are the main ways of accomplishing its objective.

\(^{31}\) 8 U.S.C. §1324a et seq.
\(^{32}\) Id.
The employer sanctions provisions designate penalties for employers who hire aliens not authorized to work in the United States. The employer sanctions provisions designate penalties for employers who hire aliens not authorized to work in the United States. Generally, IRCA requires that an individual provide proof of identity and ability to work in the United States within three days of beginning their employment. Often times, the individual will present a valid driver’s license and a social security card to complete Form I-9 under IRCA. The employer is only required by IRCA to ensure that the documents appear valid on their face and appear to relate to the individual; no more, no less. However, if an employer, as part of its background check policy, checks the validity of a social security number, then the employer could be subject to penalties under IRCA if the employer continues to employ an individual that it knows has an invalid social security number. This may not have been the employer’s intended result when it decided to conduct this type of background check. The moral of the story is to be aware that certain types of checks may invoke other aspects of the law besides the Fair Credit Reporting Act (discussed below) including, but not limited to, IRCA, federal and state discrimination laws, and state invasion of privacy laws.

There are thousands of companies that conduct background checks and selecting one to do so for your university is a big decision. This decision should be approached by the university in the same manner in which the university approaches all decisions in hiring outside vendors such as outside counsel, independent auditors, and executive search companies for high-level administrative positions. Furthermore, the costs of

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33 8 U.S.C. §1324a(1)(b)(4) & (5)
35 Id.
background checks will vary significantly based on the information gathered and the amount of searching required. Finally, once information has been obtained by the outside agency and the university has determined that it will make a decision based on that information, be sure: (1) the university is in compliance with the law; and (2) the university has checked, and re-checked, the information within the report before making any decision based on that information. Finally, if the university decides to outsource this function, then the Fair Credit Reporting Act will be implicated and must be adhered to.

The Fair Credit Reporting Act

The Fair Credit Reporting Act ("FCRA") provides the Federal Trade Commission ("FTC") with the authority to regulate background checks conducted by consumer reporting agencies on behalf of a third party.36 A consumer reporting agency is any business that “for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in ... assembling ... information on consumers for the purpose of furnishing consumer reports to third parties.”37 Though the FTC’s stated goal is to “ensure that the nation’s markets are vigorous, efficient, and free of restrictions that harm consumers,”38 it is the primary federal agency with the authority to regulate background checks. However, what the FCRA giveth, the FCRA taketh away: The FTC only regulates those background checks conducted by credit reporting agencies for and on behalf of third parties. That is, if the employer elects to conduct the background check “in-

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37 15 U.S.C. §1681a(f)
house,” then the FCRA is not implicated and the FTC is powerless.

The FCRA is designed to protect consumer information gathered by third parties in consumer reports. A “consumer report” is defined as “any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for: ... (B) employment purposes.” It must be noted that the FCRA does not require an employer to conduct employment background checks. Rather, the FCRA regulates when an employer does conduct a background check through a consumer reporting agency including what information can be included on the report and how that information can be utilized in hiring decisions.

The FCRA requires that an employer obtain an individual’s consent prior to conducting a background check through a consumer reporting agency. The authorization must be on a separate document from all other documents within the employment application. The FCRA mandates that the following items cannot be reported on a consumer report:

1. Bankruptcies after 10 years;
2. Civil suits, civil judgments, and records of arrest, from date of entry, after 7 years;

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41 15 U.S.C. §1681b(b)(2)(i) and (ii)
3. Paid tax liens after 7 years;
4. Accounts placed for collection after 7 years;
5. Any other negative information (outside of criminal convictions, which are reportable indefinitely) after 7 years.

However, simply because the FCRA states that these items cannot be reported does not necessarily mean that an employer cannot ask about these items in an interview or on an employment application. The FCRA does not prohibit an employer from seeking non-reportable information in an interview or on an employment application.\(^{42}\) Finally, these reporting restrictions imposed by the FCRA do not apply to consumer reports that are being provided to an employer for an individual applying for a position with a company where the position has an annual salary of $75,000 or more.\(^{43}\)

Other records require that an employer obtain the express consent of the individual prior to obtaining such information. These records include education records\(^{44}\), military service records\(^{45}\), and medical records\(^{46}\). To obtain the medical records, 

\(^{42}\) FTC Opinion Letters to Nadell (http://www.ftc.gov/os/statutes/fcra/nadell.htm) and Sum (http://www.ftc.gov/os/statutes/fcra/sum.htm).

\(^{43}\) 15 U.S.C. §1681c(b)(3)

\(^{44}\) The Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §1232g and its implementing Regulations, 34 CFR Part 99, further limit an employer’s ability to obtain your educational records. A school can only release “directory information,” generally an individual’s name, address, dates of attendance, and degree earned, unless the individual consents to a further release of information.

\(^{45}\) The Privacy Act of 1974 as amended, 5 U.S.C. §552a, keeps military service records confidential and only permits for their release in very limited circumstances. However, like FERPA, the Privacy Act does allow the military to release name, rank, salary, awards, duty status, and duty assignments without the individual’s consent.

\(^{46}\) The Americans with Disabilities Act, 42 U.S.C. §12101, permits an employer to ask information regarding an individual’s specific ability to perform a
the employer must demonstrate that the medical records are relevant to the position offered.\footnote{15 U.S.C. § 1681b(g).}

The term “investigative consumer report,” vital to employment background checks for hire, retention, promotion, and discipline decisions, is defined as “a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information.”\footnote{15 U.S.C. § 1681a(e).} Generally, information a potential employer obtains from previous employers and/or references will be considered part of the investigative consumer report. If the consumer report will contain investigative consumer reports, then employer must provide the individual with written notice that the background check will include interviews. If the applicant requests more information regarding the report, then the employer must provide the individual written notice on how to obtain a copy of the report from the consumer reporting agency. Again, this information is only subject to the restrictions of FCRA if obtained by a consumer reporting agency. If the employer obtains this information on its own, then the information is not subject to the limitations imposed by FCRA.

In 2003, the FCRA was amended by the Fair and Accurate Credit Transactions Act (“FACTA”). Primarily, FACTA added some specific provisions regarding the investigation into the backgrounds of employees including two new notice forms: (1)
Notice of the Duties of Entities that Furnish Information to Consumer Reporting Agencies; and (2) Notice of the Duties of Users of Information obtained from Consumer Reporting Agencies. (Both of these documents have been attached as Appendix A.) Furthermore, FACTA clarified that an employer could require employees and/or potential employees to sign a blanket authorization/release for consumer reports to be obtained by the employer at any time during the employment relationship. As a result, employers can hire an outside agency to conduct an investigation of potential misconduct, i.e., sexual harassment investigation, without obtaining consent from or providing notice to the suspected employee.

The FCRA states that if an employer uses any information in a consumer report to take an “adverse action” against an individual the employer must take the following steps to comply with the FCRA:

1. Before the adverse action is taken, the must provide the individual with a copy of the consumer report to provide the individual with an opportunity to explain and/or dispute any information within the report.

50 Facts on FACTA: Fact Sheet 6(a),” Privacy Rights Clearinghouse, available at http://www.privacyrights.org/fs/fs6a.htm
51 An adverse action is considered the denial of promotion, termination, rescinding a job offer, or denying the job applicant the position. 15 U.S.C. § 1681a(k)(B)(i) through (iv).
2. After the adverse action is taken, the individual must be provided with a notice containing the name, address, and phone number of the consumer reporting agency that produced the report, a statement that the adverse decision was made solely by the employer, and a statement on how the individual can dispute the accuracy or completeness of any of the information in the report.  

The FCRA has been given teeth by Congress, but these teeth only help if the FCRA applies, i.e., if the university has hired a consumer reporting agency to conduct the background check. When the FCRA does apply, then schools and colleges must be prepared to comply with its requirements or face fairly stiff consequences. For example, if an individual sues an employer based on FCRA violations or misuse of consumer reports, the individual can seek actual and punitive damages, court costs, and attorney’s fees. Furthermore, the FTC itself can sue employers for violations of FCRA. Each violation of the FCRA by an employer can carry up to $2,500 penalty.  

The primary limitations of the FCRA, however, are that it will not apply if the school conducts an in-house background check or if the school does not base its hiring or promotion decision, at least in part, on information contained in the consumer report. The latter is a very large loophole. Any school could easily state that its decision not to hire or not to promote an individual was based on reasons outside of information contained within the consumer report, e.g., the individual simply did not have enough publications or lacked  

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53 21 U.S.C. §§1681n, 1681o, and 1681s.
sufficient knowledge in specific subject matter. This loophole effectively removes much of the teeth from the FCRA and leaves states and/or individual colleges the ability to set their own standards when conducting and/or using background checks.

Developing Standard Operating Procedures and Background Check Policies

First, and we cannot emphasize this enough, the employer must have a coherent, written policy regarding background checks in place. A pathway and suggestions for creating such a policy are discussed below. Some sample policies are attached as Appendix B to this document. Second, ensuring compliance with FCRA if the university has utilized an outside agency for the check requires that the employer provide the individual with notice (if the employment decision was based, at least in part, on information contained within the consumer report) and provide the individual with an opportunity to correct the consumer report. We also recommend that the employer, before taking any adverse action based on a consumer report, conduct due diligence regarding that information to ensure as best as possible the accuracy of said information. Last, the employer should ensure that the action being taken does not implicate other aspects of federal or state law, i.e., discrimination laws.

Although utilizing the information seems to be straightforward, in practice, it can be quite frustrating. Let’s use the unfortunate circumstances of Professor Krueger. Assume that he is applying to State University X, which has a background policy in place. State University X wants to hire

54 21 U.S.C. §1681b(3)(A)
Professor Krueger and checks his educational background, work history, and references. All three check out wonderfully and he comes highly recommended to State University X. State University X gets Professor Krueger to sign a release for a background check, and has consumer reporting agency conduct the check. The check reveals the triple homicide on Professor Krueger’s consumer report. Follow-up determines that indeed it was the same individual that comes so highly recommended that committed such a brutal crime so many years ago. Can State University X utilize this conviction as a basis for not hiring Professor Krueger? Probably, since he will have intimate contact with the public and his crime was one of such violence. But should it? Has Professor Krueger “paid his debt to society” and is he still a “risk?” What if Professor Krueger was convicted of misdemeanor domestic violence or simple assault? Do these convictions render him unfit to teach? If State University X refuses to hire Professor Krueger based on these convictions, does it subject itself to potential litigation? If State University X knows the convictions are on Professor Krueger’s record but decides to hire him anyway and he commits a similar crime on campus, has State University X opened itself up to potential litigation?

So how should employers deal with the information they obtain through consumer reports? There is no set answer to this question only the sound advice we have reiterated throughout this document – the university must have a coherent, written policy in place the sets forth the parameters for background checks including what will be gathered, how it will be gathered, and what the university will do with the information once it is gathered. By having a written policy in place, the university has a standard operating procedure in place and all employees
and potential employees will have notice of this procedure and policy. Then, by applying this policy consistently across the board, the university has limited its liability by avoiding discriminatory practices and improper application of its own guidelines.

Whether or not a university decides to conduct background checks in the hiring process, the university should implement a recruitment system whereby the university utilizes an application for employment for all classes of employee. This will ensure consistent information is obtained from each employee. Furthermore, it will allow the university to obtain an applicant’s signature and can require that the signature “certifies” all of the information in the application as true. Why is this important? Because the university can utilize dishonesty on the application as a grounds for not hiring or firing the individual as discussed below.

Once the university has decided to conduct background checks, it should follow a clear, consistent, written policy, practice, and procedure.\footnote{If a school determines that it will not conduct background checks, it should include as part of its published materials, i.e., faculty handbook, a written statement regarding the reasons and policy behind not conducting such checks.} First, determine which checks will be conducted on which class of employees. For example, criminal background checks will be conducted on all maintenance staff, residential staff, counseling staff, and faculty. As stated above, the preferred \emph{modus operendi} is to implement a standard policy that is used for screening every potential employee and current employee due a promotion. With regard to applicants, it is also recommended that the university utilize a standard application form for all positions within the university. This
application form should clearly delineate that applicants providing false, incomplete, or misleading information will result in the application being rejected or dismissal if the information comes to light after the individual has been hired by the university. Finally, the university should designate either legal counsel, human resources, or other pertinent department to train search committees and hiring committees with regard to implementing and utilizing the university policy for each and every hire.

Whether or not a university decides to conduct background checks on employees or potential employees, it should develop a written policy clearly outlining its decision. Notice and information are the keys to maintaining a happy workforce, and a written policy providing guidance on this stressful issue will go a long way in easing that tension.

Are the policies being carried out in practice?

Consistency, consistency, consistency. It should become a part of the hiring process for the university to check employment references as well as to verify education of each applicant that is being considered for hire. This is one of the single most important demonstrators of due diligence and one of the best ways to obtain vital information about the candidate. Make sure the university obtains similar information of all candidates and employees. Make sure the university treats the information obtained in the same manner. Make sure the university asks similar questions of the references. Make sure the university asks similar questions in the interview process.
Above all else, once the university has determined that it will make a decision on an individual based on information obtained in the background checking process, check and re-check as completely as possible all facts surrounding that information to ensure its accuracy.

Are the policies in compliance with the law?

Counsel and administration should review the policy, practice and procedure to ensure that the college is in compliance with all applicable laws including the FCRA, state law background check provisions, and federal and state discrimination laws.

**STUDENTS AND POTENTIAL STUDENTS**

To Conduct or Not to Conduct Background Checks?

Many of the same issues confronting universities with regard to conducting background checks on employees also arise in the context of whether to conduct background checks on students. As such, we will briefly touch upon these similarities but will focus primarily on the areas that differ with respect to conducting background checks on students. However, it should be noted that since students are not “employees” of the university, the FCRA will not apply to background checks conducted on students and, therefore, the FCRA will not be discussed in this context. Currently, several educational programs, due to licensing requirements, will compel
students within those programs to submit to background checks. As with employees, there are several arguments in favor of and against conducting background checks on students. On the “pro” side of the debate, several programs students will enter require a state license and, generally, that license will be difficult, if not impossible, to obtain if the student has a criminal conviction, the events of 9/11 brought higher scrutiny with respect to monitoring of foreign students, and heightened awareness and the desire for parents and students to attend a university that is committing to protecting its students from unsafe living environments. On the “con” side of the debate are invasion of privacy concerns, discrimination concerns, “double-jeopardy” concerns, and issues surrounding the accuracy of consumer reports.

Safety Issues: Generally, college is a student’s first living experience outside of her parents’ home. Both parents and students want to ensure that when they are placed in this new environment including dormitory housing that the individuals they study with, live with, and work with are not a risk to their safety. The most publicized of these events were the horrible tragedies of student-on-student homicide at the University of North Carolina-Wilmington. As events like this rock a particular campus, they also touch the lives of others through the national media. Parents want to know that when they send their children to a university, that university has done

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56 E.g., AAMC endorses background checks for medical students, several state laws require background checks for students entering education or healthcare fields.
57 “Reference and Background Checking on Prospective Employees: Strategies to get Good Information without Infringing on Privacy and Civil Rights,” SG005 ALI-ABA 145, 147 (March, 2002).
everything in its power to protect their child. For some, this would include the university requiring background checks of all incoming students. Is it possible, economically and otherwise, for a university even to consider this option? One potential solution is for the university to have a written policy in place allowing the university to remove any student that lied or was dishonest in the application process. Then the university can inquire on the application whether the student has ever been convicted of a crime. Any student that lies about convictions can later be removed if the university obtains information about this conviction.

Negligent Admissions: “To establish a prima facie case in an action against an educational institution or employee for personal injury to or death of a student as a result of an assault, the plaintiff must plead and prove that: 1. the defendant owed a duty of care to protect the student from assault; 2. the defendant breached that duty; and 3. the defendant's breach of duty was a proximate cause of the student's injury or death. “59 The case law in this area is negligible but appears to be developing as more and more of these events hit the national media and gain the public’s attention. As this happens, pressure will continue to mount on universities to conduct and require background checks on all applicants for admission to their university.

Other Theories of Liability: “In addition to a negligence action against an educational institution or employee, a student who was injured in an assault may be able to proceed on other theories of liability, although the circumstances under which

59 26 Causes of Action 451 (2004), “Cause of Action Against Educational Institution or Employee for Assault Against Student,” Theresa L. Kilgore, JD
this will be possible are quite limited. Where there is a landlord-tenant relationship between the student and the university, such as where the student resided in a dormitory operated by the university where the assault occurred, it may be possible to allege liability based on, for example, breach of the warranty of habitability or negligence in the maintenance of common areas. If an employee of the university made representations about the safety of school facilities, a negligent misrepresentation action may be a possibility.”

Universities must be aware of the potential liabilities that wait if they choose to or not to conduct background checks on students.

*September 11, 2001*: The tragic events of 9/11 were highlighted by the fact that these horrific actions were carried out by foreign national students who were legally in the United States on student visas. In response to this, Congress enacted legislation requiring universities to monitor their foreign national students via an online database that is interconnected with the U.S. Department of State, Department of Homeland Security, and the Federal Bureau of Investigation databases. According to the U.S. Immigration and Customs Enforcement, the "Student and Exchange Visitor Information System (SEVIS) is a web-based system for maintaining information on international students and exchange visitors in the United States. SEVIS is administered by the Student and Exchange Visitor Program (SEVP), a division of U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security."
Schools are required to monitor the status of foreign national students at their institutions and report any transgressions in status via the database. But, beyond that, before these students enter the United States, they must apply for a visa at the U.S. Embassy or Consulate in their home country. As part of this application, the student’s background is investigated by the U.S. Department of State and becomes a part of that student’s permanent record within SEVIS. As such, can a university operate under the assumption that if the student was granted a visa and admission into the United States that the student has a background that is not subject to question by the university? Should further background checks be conducted or required by the university? If the university only conducts background checks on non-foreign, i.e., U.S. citizen, students for these reasons, does it then subject itself to a lawsuit by the U.S. students?

**Licensing Issues:** Does a university have an obligation to conduct background checks on students who will enter programs that will require them to obtain a license to practice in their chosen profession? For example, to obtain a teaching license in most states requires that the individual be “fit” for teaching, which generally requires that the individual not have a criminal background. Should the university subject potential education program students to mandatory background checks or should the university simply make the student aware of the regulations governing obtaining a license? Does the university increase its obligations by actually conducting the background check? As more organizations like the AAMC come out in favor of student

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64 Georgia Professional Standards Commission Certification Rules, Rule 505-2-.24, FBI background checks required for employment as a teacher.
background checks, universities need to be aware of the issues surrounding these decisions and take the lead in developing their own policies and procedures for so doing.

**Discrimination Concerns:** Universities need to develop a consistent, written policy that requires that background checks be conducted or not conducted on a uniform basis to all students. For example, if the university determines that it will conduct background checks on medical students, then it must conduct the same checks on all students rather than a select class. By conducting the same checks for all students the university can avoid charges of discriminatory treatment.

**Double-Jeopardy Concerns:** As with employees, universities must grapple with imposing a second punishment on an individual who has already paid society’s debt for his crime. If a student was convicted of sexual assault in high school and was required to serve probation and pay a fine, which the student did, should the university, after conducting a background check, utilize this information to require that the student not reside in dormitory housing? If the university has this information and still allows the individual to live in dormitory housing, then the student commits a similar crime on another student, what liability has the school exposed itself to?

**Accuracy Issues:** The amount of information available to employers and consumer reporting agencies means that employers can conduct background checks on several issues. The problem is whether or not the information contained in these reports is accurate. If an individual has changed names or moved several times, information may be missed or overlooked. How then does a university rely on and use this information in admissions
decisions, housing decisions, and other decisions related to its student populations?

Once the university has considered these difficult issues on both sides of the debate and has determined that it will conduct background checks, it must then take two additional steps: (1) determine which background check is best for the university; and (2) develop a clear and consistent policy for the implementation and use such checks. Background checks with regard to students are a potential logistical nightmare. If a university admits 5,000 students, then it would need to conduct 5,000 background checks prior to admitting the students and with enough time to allow any waitlisted students the opportunity to be accepted into the program for any student whose background check rendered them unfit for admittance to the university. All of these would need to be completed within a few months. Can universities be held to such requirements or standards? Should they? Background checks for students are a much more difficult question and analysis, and may simply not be realistic for the university. Only time will tell how the checking of students will play out in the future: Will universities be subject to negligent admission lawsuits? Will universities have to rework their entire admissions processes to allow time for background checks and will they need to raise tuition even higher to cover the costs of these checks?

With regard to students and potential students, the realistic approach for the immediate future seems to pertain to the placement of students within programs that will require state licensure, e.g., teachers, psychologists, chiropractors, etc. Where state licensure is required and the student will be placed in a student practicum where that student is exposed to...
the general public in a “vulnerable” position, then it may behoove the university to conduct background checks on these individuals to prevent the school from being exposed to potential liability and to provide the necessary assistance and career counseling to a student who may not be eligible for their chosen profession given their past.

CONCLUSION

The mantra of this article is clear: whether or not your university decides to conduct background checks: (1) it should develop a clear, written statement regarding that decision and maintain it as part of the school’s core policies; (2) applications should be utilized that are compliant with the law and that obtain consistent and clear information from each and every applicant; and (3) whatever policy is implemented, it must be consistently applied to each and every applicant. There are pros and cons to each side of the argument on whether to conduct or not to conduct background checks, and on how the information can and should be utilized thereafter. The bias of these authors is to err on the side of caution and, at the very least, implement basic background checks, which include confirming education, verifying previous employment history, and conducting criminal checks for positions where it seems most relevant to your university.
All furnishers subject to the Federal Trade Commission’s jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission’s Web site, www.ftc.gov/credit. Furnishers who are not subject to the Commission’s jurisdiction should consult with their regulators to find any relevant regulations.

NOTICE TO FURNISHERS OF INFORMATION:
OBLIGATIONS OF FURNISHERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA, 15 U.S.C. 1681s-2. State law may impose additional requirements on furnishers. All furnishers of information to CRAs should become familiar with the applicable laws and may want to consult with their counsel to ensure that they are in compliance. The text of the FCRA is set forth in full at the Website of the Federal Trade Commission (FTC): www.ftc.gov/credit. A list of the sections of the FCRA cross-referenced to the U.S. Code is at the end of this document.

Section 623 imposes the following duties upon furnishers:

Accuracy Guidelines

The banking and credit union regulators and the FTC will promulgate guidelines and regulations dealing with the accuracy of information provided to CRAs by furnishers. The regulations and guidelines issued by the FTC will be available at www.ftc.gov/credit when they are issued. Section 623(e).

General Prohibition on Reporting Inaccurate Information

The FCRA prohibits information furnishers from furnishing a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. Sections 623(a)(1)(A) and (a)(1)(C).

Duty to Correct and Update Information

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must promptly provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. Section 623(a)(2).
Duties After Notice of Dispute from Consumer

If a consumer notifies a furnisher, at an address specified for the furnisher for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate, the furnisher must thereafter report the correct information to CRAs. Section 623(a)(1)(B).

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. Section 623(a)(3).

The federal banking and credit union regulators and the FTC will issue regulations that will identify when an information furnisher must investigate a dispute made directly to the furnisher by a consumer. Once these regulations are issued, furnishers must comply with them and complete an investigation within 30 days (or 45 days, if the consumer later provides relevant additional information) unless the dispute is frivolous or irrelevant or comes from a “credit repair organization.” The FTC regulations will be available at www.ftc.gov/credit. Section 623(a)(8).

Duties After Notice of Dispute from Consumer Reporting Agency

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by the consumer. Sections 623(b)(1)(A) and (b)(1)(B).
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that compile and maintain files on a nationwide basis. Section 623(b)(1)(C) and (b)(1)(D).
- Complete the above steps within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). Section 623(b)(2).
- Promptly modify or delete the information, or block its reporting. Section 623(b)(1)(E).

Duty to Report Voluntary Closing of Credit Accounts

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnishes information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. Section 623(a)(4).

Duty to Report Dates of Delinquencies

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement
of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. Section 623(a)(5).

Any person, such as a debt collector, that has acquired or is responsible for collecting delinquent accounts and that reports information to CRAs may comply with the requirements of Section 623(a)(5) (until there is a consumer dispute) by reporting the same delinquency date previously reported by the creditor. If the creditor did not report this date, they may comply with the FCRA by establishing reasonable procedures to obtain and report delinquency dates, or, if a delinquency date cannot be reasonably obtained, by following reasonable procedures to ensure that the date reported precedes the date when the account was placed for collection, charged to profit or loss, or subjected to any similar action. Section 623(a)(5).

**Duties of Financial Institutions When Reporting Negative Information**

Financial institutions that furnish information to “nationwide” consumer reporting agencies, as defined in Section 603(p), must notify consumers in writing if they may furnish or have furnished negative information to a CRA. Section 623(a)(7). The Federal Reserve Board has prescribed model disclosures, 12 CFR Part 222, App. B.

**Duties When Furnishing Medical Information**

A furnisher whose primary business is providing medical services, products, or devices (and such furnisher’s agents or assignees) is a medical information furnisher for the purposes of the FCRA and must notify all CRAs to which it reports of this fact. Section 623(a)(9). This notice will enable CRAs to comply with their duties under Section 604(g) when reporting medical information.

**Duties When ID Theft Occurs**

All furnishers must have in place reasonable procedures to respond to notifications from CRAs that information furnished is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher may not furnish information that a consumer has identified as resulting from identity theft unless the furnisher subsequently knows or is informed by the consumer that the information is correct. Section 623(a)(6). If a furnisher learns that it has furnished inaccurate information due to identity theft, it must notify each consumer reporting agency of the correct information and must thereafter report only complete and accurate information. Section 623(a)(2). When any furnisher of information is notified pursuant to the procedures set forth in Section 605B that a debt has resulted from identity theft, the furnisher may not sell, transfer, or place for collection the debt except in certain limited circumstances. Section 615(f).

The FTC’s Web site, www.ftc.gov/credit, has more information about the FCRA, including publications for businesses and the full text of the FCRA.
Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:

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All users subject to the Federal Trade Commission’s jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission’s Web site, www.ftc.gov/credit. Persons not subject to the Commission’s jurisdiction should consult with their regulators to find any relevant regulations.

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Federal Trade Commission’s Website at www.ftc.gov/credit. At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the Commission’s Web site. Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

1. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers’ privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. Section 604(a)(1)
- As instructed by the consumer in writing. Section 604(a)(2)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer’s account. Section 604(a)(3)(A)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. Sections 604(a)(3)(B) and 604(b)
• For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)

• When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)

• To review a consumer's account to determine whether the consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)

• To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. Section 604(a)(3)(D)

• For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)

• For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604(a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of "prescreened" information are described in Section VII below.

B. Users Must Provide Certifications

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

C. Users Must Notify Consumers When Adverse Actions Are Taken

The term "adverse action" is defined very broadly by Section 603. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA — such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.
1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.

- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.

- A statement setting forth the consumer’s right to obtain a free disclosure of the consumer’s file from the CRA if the consumer makes a request within 60 days.

- A statement setting forth the consumer’s right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer’s written request.

3. Adverse Actions Based on Information Obtained From Affiliates

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.
D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer’s alert.

E. Users Have Obligations When Notified of an Address Discrepancy

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports where the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer’s file. When this occurs, users must comply with regulations specifying the procedures to be followed, which will be issued by the Federal Trade Commission and the banking and credit union regulators. The Federal Trade Commission’s regulations will be available at www.ftc.gov/credit.

F. Users Have Obligations When Disposing of Records

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. The Federal Trade Commission, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulations covering disposal. The Federal Trade Commission’s regulations may be found at www.ftc.gov/credit.

II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations to be jointly prescribed by the Federal Trade Commission and the Federal Reserve Board.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must
provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

A. Employment Other Than in the Trucking Industry

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.

- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.

- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.

- Before taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

B. Employment in the Trucking Industry

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking
company by contacting the company.

IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)

- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.

- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the
medical provider). If the information is to be used for an insurance transaction, the consumer
must give consent to the user of the report or the information must be coded. If the report is to be
used for employment purposes -- or in connection with a credit transaction (except as provided in
regulations issued by the banking and credit union regulators) -- the consumer must provide
specific written consent and the medical information must be relevant. Any user who receives
medical information shall not disclose the information to any other person (except where
necessary to carry out the purpose for which the information was disclosed, or as permitted by
statute, regulation, or order).

VII. OBLIGATIONS OF USERS OF "PRESCREENED" LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information
for use in connection with unsolicited offers of credit or insurance under certain circumstances.
Sections 603(l), 604(c), 604(e), and 615(d). This practice is known as "prescreening" and
typically involves obtaining from a CRA a list of consumers who meet certain preestablished
criteria. If any person intends to use prescreened lists, that person must (1) before the offer is
made, establish the criteria that will be relied upon to make the offer and to grant credit or
insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on
which the offer is made to each consumer. In addition, any user must provide with each written
solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the
  transaction.

- The consumer received the offer because he or she satisfied the criteria for credit
  worthiness or insurability used to screen for the offer.

- Credit or insurance may not be extended if, after the consumer responds, it is
determined that the consumer does not meet the criteria used for screening or any
applicable criteria bearing on credit worthiness or insurability, or the consumer
does not furnish required collateral.

- The consumer may prohibit the use of information in his or her file in connection
  with future prescreened offers of credit or insurance by contacting the notification
  system established by the CRA that provided the report. The statement must
  include the address and toll-free telephone number of the appropriate notification
  system.

In addition, once the Federal Trade Commission by rule has established the format, type
size, and manner of the disclosure required by Section 615(d), users must be in compliance with
the rule. The FTC's regulations will be at www.ftc.gov/credit.
VIII. OBLIGATIONS OF RESELLERS

A. Disclosure and Certification Requirements
Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  1. the identity of all end-users;
  2. certifications from all users of each purpose for which reports will be used; and
  3. certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

B. Reinvestigations by Resellers

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

C. Fraud Alerts and Resellers

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

IX. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.
The FTC’s Web site, [www.ftc.gov/credit](http://www.ftc.gov/credit), has more information about the FCRA, including publications for businesses and the full text of the FCRA.

Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:

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Personnel Policies for All Staff at IU

BACKGROUND CHECKS

Application of Policy

This policy applies to all Staff and Hourly employees of Indiana University.

A. Purpose

1. It is important that the University's academic and research missions are supported by qualified employees, with a safe and secure environment for all University constituents, including students, visitors and employees. It is also important that Indiana University take meaningful actions to protect its funds, property and other assets.

2. This policy is intended to support the verification of credentials, criminal history, credit status and other information related to employment decisions that assist the University in meeting its commitments.

B. Statement of General Policy

1. It is the policy of Indiana University that all new Staff and specified new Hourly employees have certain credentials and criminal and other background information verified as a condition of employment.

2. It is the policy of Indiana University that specified current Staff employees with fiscal management responsibility have their criminal and other background information verified as a condition of continued employment.

C. Definitions

1. "Credit history check" means checking the credit history of the selected applicant or employee. (Federal laws prohibit discrimination against an applicant or employee as a result of bankruptcy.)

2. "Criminal history check" means verifying that the selected applicant or employee does not have any undisclosed criminal history in every jurisdiction where the applicant or employee currently or has resided.

3. "Educational verification" means ensuring that the selected applicant or employee possesses all educational credentials beyond high school listed on the application, resume or cover letter or otherwise cited by the candidate that qualify the individual for the position sought.

4. "Employee" is defined as any person employed by Indiana University, whether full- or part-time.

5. "Employment verification" means ensuring that the selected applicant or employee actually worked in the positions listed on the application, resume, or cover letter or otherwise cited by the candidate that qualify the individual for the position sought, as well as all employment during a period of at least seven (7) years immediately preceding application at Indiana University. This verification should include dates of employment and reasons for leaving each position.
6. "License verification" means ensuring that the selected applicant or employee possesses all the licenses listed on the application, resume or cover letter or otherwise cited by the candidate that qualify the individual for the position sought and verification of any license required for the position, including verification of the disposition of such licenses. This includes any motor vehicle drivers licenses required for the associated position.

7. "Limited criminal history check" means verifying that the selected applicant or employee does not have any undisclosed criminal history in the jurisdiction where the applicant or employee currently resides, or where the applicant or employee last resided, if the applicant or employee only recently moved to a location near the University.

8. "Limited sex and violent offender registry check" means verifying that the selected applicant or employee does not have undisclosed convictions of certain sex and violent crimes in the jurisdiction where the applicant or employee currently resides, or where the applicant or employee last resided, if the applicant or employee only recently moved to a location near the University.

9. "Sex and violent offender registry check" means verifying that the selected applicant or employee does not have undisclosed convictions of certain sex and violent crimes in every jurisdiction where the applicant or employee currently or has resided.

10. "Tax payment check" means verifying that the selected applicant or employee is current in payment of Indiana state taxes.

D. Policy Provisions

1. New Staff Employees

   a. All new Staff employees shall have the following background checks completed as a condition of employment with Indiana University. For each of the background checks identified in this paragraph, the human resources office at each campus will determine whether it or the hiring department will perform the background check.

   i. Employment verification - to be completed by the hiring department or campus human resources office

   ii. Educational verification - to be completed by the hiring department or campus human resources office

   iii. License verification - to be completed by the hiring department or campus human resources office; except for a required motor vehicle drivers license, which is to be initiated by the hiring department or campus human resources office and completed by Risk Management

   iv. Criminal history check - to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

   v. Sex and violent offender registry check - to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

   b. Foreign nationals who have been offered employment into appointed Staff positions will be subject to the following provisions:
i. The verification of education that the candidate has cited that qualifies the individual for the position.

ii. The verification of employment that the candidate has cited that qualifies the individual for the position.

iii. A criminal history check covering time in the United States if the period of time that the individual has worked in the United States exceeds one year.

iv. A criminal history check in the individual’s prior countries of residence only if the individual’s visa and/or authorization to work in the United States was issued before implementation of the Patriot Act on October 24, 2001. The university will not require that a criminal history check be conducted in the individual’s prior countries of residence if the visa or authorization to work was issued or renewed under the provisions of the Patriot Act.

c. All new Staff employees who will be performing any of the following jobs shall also have the below listed additional background checks completed as a condition of employment with Indiana University: Vice President, Vice Chancellor, Associate or Assistant Vice President, University Athletics Director, CEO IU Alumni Association, and other positions as requested by the campus human resources office and approved by University Human Resource Services. Additional background checks shall include:

   i. Credit history check - to be completed by University Human Resource Services

   ii. Tax payment check - to be completed by University Human Resource Services

d. If the university has performed any of the above verification or history checks on an individual within the past year, a new verification or history check of that specific category will not be required. The results of the previously performed verification and/or history check will be considered in any pending employment decision.

2. New Hourly Employees (including individuals with student status)

   a. All new Hourly employees who are hired to perform work indicated below and who are at least 22 years old shall have the following background check completed as a condition of employment with Indiana University:

   i. Criminal history check -- to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

   ii. Sex and violent offender registry check - to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

   b. Foreign nationals who have been offered employment into Hourly positions performing the type of work covered elsewhere in this policy will be subject to the following provisions:

   i. A criminal history check covering time in the United States if the period of time that the individual has worked in the United States exceeds one year.

   ii. A criminal history check in the individual’s prior countries of residence only if the individual’s visa and/or authorization to work in the United States was issued before
implementation of the Patriot Act on October 24, 2001. The university will not require that a criminal history check be conducted in the individual’s prior countries of residence if the visa or authorization to work was issued or renewed under the provisions of the Patriot Act.

c. Hourly work assignments that require this background check include:

i. Employment in a PERF covered position

ii. Work that involves handling financial, student or personnel data or records

iii. Work that involves any confidential or sensitive data or information

iv. Work that involves handling cash, checks, or credit card transactions

v. Work that involves responsibility for or providing services to any one under the age of 18

vi. Work that involves possessing keys/codes or other means of entry to living spaces within university provided housing, e.g. dormitory rooms, hotel rooms, or apartments

vii. Work that provides access to a select agent or toxin as defined by the Centers for Disease Control (CDC) or which will load, unload, prepare for transport, transport, or offer for transportation any quantity of radioactive materials or a quantity of hazardous material which requires placards.

viii. Any other Hourly positions that a campus human resources office determines should be included.

d. For the same new Hourly employees in 1) who are less than 22 years old, the following background check shall be completed as a condition of employment with Indiana University:

i. Limited Criminal history check -- to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

ii. Limited sex and violent offender registry check - to be initiated by the hiring department or campus human resources office, with final completion by the campus human resources office

e. All new Hourly employees who are hired to perform work that requires a license, regardless of age, shall have the following background check completed as a condition of employment with Indiana University:

i. License verification - to be completed by the hiring department; except for a required motor vehicle drivers license, which is to be initiated by the department and completed by Risk Management

f. If the university has performed any of the above verification or history checks on an individual within the past year, a new verification or history check of that specific category will not be required. The results of the previously performed verification and/or history check will be considered in any pending employment decision.

g. At the discretion of the hiring department or campus human resources office, an Hourly employee may have an educational verification and/or employment verification completed.
3. Current Staff Employees

a. All current Staff employees who are performing any of the following jobs or functions shall have the below listed background checks completed as a condition of continued employment with Indiana University: Vice President, Vice Chancellor, Associate or Assistant Vice President, University Athletics Director, and CEO Alumni Association.

i. Criminal history check -- to be completed by University Human Resource Services

ii. Credit history check -- to be completed by University Human Resource Services

iii. Tax payment check - to be completed by University Human Resource Services

E. Responsibilities

1. Campus Human Resource Office or Hiring Department Responsibilities

a. The human resources office at each campus will determine which of the components of the background check that it or the hiring department will perform.

b. All offers of employment, oral and written, shall include the following statement: "This offer is contingent on the university's verification of credentials and other information required by state law and IU policies, including the completion of a criminal history check."

c. Employment verification: it is strongly recommended that this verification be completed before making an offer of employment to any individual; in all cases requiring such, this verification shall be completed within 30 days of making the offer of employment.

d. Educational and License verifications: it is strongly recommended that this verification be completed before making an offer of employment to any individual; in all cases requiring such, these verifications shall be completed within 30 days of making the offer of employment.

e. Criminal history check (standard or limited) and sex and violent offender registry check (standard or limited): in all cases requiring such, these background checks shall be initiated after acceptance of the conditional offer of employment.

i. The individual's official name, date of birth and social security number will be obtained from the person and provided to a third-party which the University has contracted with for associated services

f. If the criminal history check indicates that there are no convictions, the third party vendor will inform the initiator of the request who in turn will inform the applicant that the employment offer is confirmed.

g. If the criminal history check indicates that there are convictions, the third party vendor will inform the campus human resources office and University Human Resource Services. The campus human resource office will provide a copy of the report to the individual. (All related information will be treated as confidential, and protected as such.)

h. If the criminal history check reveals convictions which the individual disclosed in the application, the campus human resource office will review the report with the hiring department and jointly, they will evaluate each conviction, including any additional information that the individual provides, before the offer of employment is confirmed or
withdrawn. The existence of a conviction does not automatically disqualify an individual from employment. Relevant considerations may include, but are not limited to, the nature and number of the convictions, their dates, and the relationship that a conviction has to the duties and responsibilities of the position. Any decision to accept or reject an individual with a conviction is solely at the discretion of Indiana University. (All related information will be treated as confidential, and protected as such.)

i. If unreported convictions are revealed in the criminal history check, the offer of employment will be withdrawn and, if employed, the individual will be separated from employment, unless the individual shows that the report is in error. The decision to reject or terminate an individual with an unreported conviction is solely at the discretion of Indiana University. (All related information will be treated as confidential, and protected as such.)

j. In the event that the results of the background check influences a decision to withdraw an employment offer or terminate employment, the campus human resources office will inform the hiring department and the individual.

k. For all employment, education, and license checks/verifications required, departments shall maintain records indicating the item checked/verified, the name of the department personnel completing the check/verification, the date of the check/verification, and the status of the check/verification. These records shall be retained in the department's personnel file for the associated employee.

   i. All results of criminal and sex and violent offenders convictions or issues are considered confidential and will be maintained in confidential files within the campus human resources office.

l. The hiring department will be responsible for any fees associated with any of the components of the background check process. (Schools or campuses may decide to fund the cost of associated fees.)

2. University Human Resource Services Responsibilities

a. In the event that a criminal conviction is found, the third party vendor will submit the report to the campus human resources office associated with the position and University Human Resource Services.

b. University Human Resource Services will monitor the hiring decisions made in such cases, consult with the campus human resources office in helping to resolve cases, and monitor hiring decisions in such cases for consistency.

c. University Human Resource Services will conduct criminal, credit and tax history background checks for Staff employees in the following positions: Vice President, Vice Chancellor, Associate or Assistant Vice President, University Athletics Director, and CEO Alumni Association. (All related information will be treated as confidential, and protected as such.)

d. University Human Resource Services will coordinate the receipt and payment of the third party vendor's fees.

F. Sanctions for Violation

Violations of University policies, including providing false or misleading information used
for any of the above background checks, will be handled in accordance with applicable University policies and procedures; which may include disciplinary actions up to and including termination from the University.

G. Appeals

Decisions regarding the withdrawal of an employment offer as a result of a background check may be appealed to the next higher unit head for review. An employee who is terminated as a result of a background check may appeal such decision in accordance with normal problem-grievance resolution procedures.

Related University Policies and Laws

IU Human Resource Policies related to Selecting and Hiring Employees

IU Risk Management Policies related to Motor Vehicle Drivers License

Office Responsible for this Policy

University Human Resource Services

Effective Date

The effective dates for full implementation of this policy are: immediately after the approval of this policy for Employment, Education and License verifications and July 1, 2004, for Criminal, Sex and Violent Offender Registry, Credit History and Tax Payment checks.

University Human Resource Services
Revision date: 13 December 2004
34. Background Check Policy

34.1 Pursuant to Tennessee Board of Regents Guideline P-010, Personnel Transactions and Recommended Forms, background checks will be conducted of candidates recommended for specified positions including interim/acting positions. The Human Resource Services Office will determine the necessity of subsequent background checks for employees who have a background check on file and who are being promoted or transferred to a new position. Factors to be considered will be recency of previous background check and duties and responsibilities of the new position. Circumstances may also arise for which background checks of current employees will be necessary in order to determine whether their employment status with the institution should be changed. This process is necessary to ensure that individuals are selected or retained who possess the qualifications to perform the duties of the position most effectively and who are best able to serve the institution. Background checks may include but not be limited to: confirmation of the individual’s identity; credit information; review of an individual’s criminal conviction record, if any; verification of any license, certificate or degree required for the position. The Director of Human Resource Services shall designate what checks are necessary based upon the position being filled.

34.2 Individuals shall be made aware of the background check procedures during the application process. Appointment to or continued employment in a specified position is contingent upon an acceptable background check, and any written offer of employment must contain notice of this contingency. Background checks, when possible, will be completed prior to appointing a person to the position. However, should a background check be initiated or the results provided after employment has begun, the results shall be used to assess the employee’s suitability for continued employment. If employment is begun prior to receipt of the results of the background check, the employment contract shall state that continued employment is conditioned upon an acceptable background check.

34.3 The Human Resource Services Office will determine and maintain a list of the types of checks that will be required of the specified positions based upon the responsibilities of the position. Only those types of checks where there is a clear connection between the duties or nature of the position and the need for this information will be requested. Some positions for which a credit and/or criminal background check might be appropriate are those where the employee would handle currency; have access to confidential information and/or the capability to create, delete or alter records; have routine access to building master control and key systems; be responsible for the care or instruction of children; or, work in an area of the institution which has been designated as a security-sensitive area.

34.4 The Human Resource Services Office is responsible for ensuring that the Disclosure and Authorization form (Background Investigation Consent form) required by the Fair Credit Reporting Act (FCRA) is completed. No background check may be requested until this form is completed. If the candidate/employee refuses to sign the Disclosure and Authorization Form, no further consideration for employment will be given to this individual.

34.5 The Human Resource Services Office will send, via the internet, the background check request to
Choicepoint, the background check agency, who will normally respond in 1-7 days of receipt of the form.

34.6 The Employment Manager and the Director of Human Resource Services will review and evaluate all information obtained in the Background Investigation. If the consumer report contains information upon which it is determined that the candidate/employee does not possess the qualifications or characteristics necessary to perform the duties of the position most effectively, or would not be the best candidate to serve the institution in the subject position, an offer of employment, promotion, reclassification or transfer should not be made.

34.7 Detention and/or arrest without conviction do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. Only criminal convictions or pleas of nolo contendere will be considered in determining a candidate's/employee's suitability for employment or continued employment. In assessing a record of criminal convictions, the decision will be made by assessing:

34.7.1 The nature and severity of the offense as well as a variety of surrounding facts and circumstances including, but not limited to:

A. the age of the individual at the time of the offense;

B. the number of offenses for which the individual was convicted;

C. the time which has elapsed since the last offense;

D. whether the circumstances arose out of an employment situation.

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

A. the nature and scope of the position's student, public or other interpersonal conduct;

B. the nature and scope of the position's autonomy and discretionary authority;

C. the extent to which the position holds a measure of fiscal responsibility to the institution;

D. the opportunity presented for the commission of additional offenses; and

E. the extent to which acceptable job performance requires the trust and confidence of the institution, employees, students or the public.

34.7.3 The critical questions that must be answered in order to substantiate a decision not to hire, promote, transfer, etc. are:

A. whether the nature of the criminal conviction prevents the individual from performing the job applied for in an acceptable business-like manner; and

B. whether the offense is job-related, i.e., can the individual perform
acceptably in spite of the conviction.

34.8 If adverse action is to be taken based in whole or in part on the information obtained from the background check, additional provisions of the FCRA must be followed. Prior to taking adverse action, the Human Resource Services Office must provide the candidate/employee with a copy of the background check report, along with a summary of rights. After the adverse action is taken, the candidate/employee must be given an Adverse Action Notice (See Exhibit P/P-38). An adverse action would include such things as the University's intent to deny employment to a candidate or promotion, reclassification, transfer or retention as an employee. Information will be shared with the hiring department and/or supervisor of current employee.

34.9 Any discrepancy between information provided by the applicant on application materials and the information provided by Choicepoint in the background investigation must be explained and documented. The candidate/employee must sign a statement of explanation which is then attached to the background investigation paperwork and put in the subject's personnel file.

34.10 The background check agency will charge a fee for each investigation conducted. The Human Resource Services Office covers all fees except for the following areas:

34.10.1 Facilities and Business Services
34.10.2 Grant-funded positions
34.10.3 Residential Life
34.10.4 Post Office
34.10.5 Fitness Center
34.10.6 General education funding

34.11 The Human Resource Services Office will serve as the custodian of the records for background investigation results. Results on individuals who become employees will be kept in the employee's personnel file.

This information is maintained by Business & Fiscal Affairs
Last Updated: 18-JUL-2003
For more information, contact the Human Resource Services Office

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Human Resources

Employee Handbook

MEET THE STAFF

EMPLOYEE INFORMATION

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RAVE!

EMPLOYEE HANDBOOK

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- Policies and Procedures
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HUMAN RESOURCES HOME

Employees Subject to Background Checks

Employees subject to pre-employment and concurrent with employment background checks include the following:

1) Regular (benefits-eligible) faculty and staff, adjunct faculty and tutors beginning employment January 1, 2005, or later;
2) All current and future employees in security-sensitive positions including part-time, temporary and student workers, and casual labor; and
3) Employees who are returning to employment after more than a twelve-month break in service.
4) Employees who are changing status from non-regular to regular employment (non-benefits-eligible to benefits-eligible).

Security-sensitive Positions

Vice presidents are responsible for determining which positions in their areas should be designated as security-sensitive based on the responsibilities of those positions. The criteria to be considered include, but are not limited to, whether the employee’s responsibilities provide for:

1) Key or card access to university-owned residential facilities; or
2) Direct responsibility for the oversight, care, safety and security of non-enrolled minors.

When hiring officials contact Human Resources about filling a security-sensitive position, they must identify the job as such so the job opening can be correctly announced. Under no circumstances, including casual or temporary labor needs, may a candidate for a security-sensitive position begin employment prior to the completion of the background check.

Recordkeeping

The Office of Human Resources will maintain a log of all background checks. The log will include the following: name, department, position title, hiring official, date of background check, and employment date. Copies of background check consent forms and background reports will be maintained in a separate and confidential file.

Job Postings/Recruitments

All recruitment information (job posting, flyers, external advertising) must state that employment is contingent upon obtaining and maintaining a satisfactory background check.

Job Applications

All applicants must complete and sign the appropriate St. Edward’s Application for Employment (faculty or staff), and the Background Check Consent Form. Falsification of information submitted on St. Edward’s University application materials may be grounds for disqualification or separation.

Final Interviews

During the final interview process, all candidates will be notified that any job offer and moving expenses, if applicable, are contingent upon successful completion of the background check.
Job Offers
Other than security-sensitive positions, if a background check cannot be completed prior to the start date, the background check must be initiated no later than three days after the employee’s start date. When such a position is offered, it shall be reiterated to the final candidate that the offer of employment is conditioned upon successful completion of the background check (e.g., “Successful completion of a background check is required for employment. If the results of the background check are not satisfactory, this offer of employment is rescinded.”)

Criminal Convictions
1) Only criminal convictions, guilty pleas and pleas of no contest will be considered in determining an applicant's suitability for employment. Detention or arrest without conviction, guilty plea or plea of no contest typically do not constitute valid grounds for employment decisions or play a part in the decision-making process.
2) In determining an applicant's suitability for employment where the applicant has criminal convictions on his/her record, consideration will be given to the specific duties of the position, the number of offenses and circumstances of each, the length of time since the conviction(s) and the accuracy of the explanation on the application.
3) In instances where information is obtained that may result in a release from employment, or if there has been falsification of information submitted on university application materials that may be grounds for disqualification or separation, the Office of Human Resources will provide guidance and a recommendation to the hiring department.
4) If a completed background check regarding a current university employee reveals adverse information that bears a significant relationship to the employee's suitability to perform the required duties and responsibilities of his/her current position, or if there has been falsification of information submitted on university application materials that may be grounds for disqualification or separation, the Office of Human Resources will provide guidance and a recommendation to the appropriate managers.
5) If a current employee is terminated or resigns as a result of information obtained from the initial background check, and there has been no falsification of information submitted on university application materials, the employee will receive his/her accrued, unused annual leave.
6) Human Resources will serve as the “office of record” for background check results.

Dispute Information
If a candidate or current employee disputes the accuracy of any information obtained in a background check (including criminal records) he/she should be referred to the agency that provided the information. Such dispute will not necessarily impact the hiring process. A candidate or current employee disputing the accuracy of information will have three (3) business days to conclusively demonstrate the inaccuracy of the information obtained in a background check, after which time an employment decision may be made.

Procedure
New Employees: To be considered for employment, all prospective employees must complete and submit two documents: the (staff or faculty) Application for Employment and the Background Check Consent Form. All job offers must be made “contingent upon successful completion of a background check.” After the contingent offer is made, the hiring official will notify HR and provide all of the required documents. After the background check is successfully completed, generally three to five working days, HR will notify the hiring official. The new employee may begin work at any time after that. On those rare occasions when the background check is not satisfactory, HR will provide guidance and a recommendation to the supervisor and appropriate vice president.

Current Employees: Current employees in security-sensitive positions must complete and submit the Background Check Consent Form and the appropriate (staff or faculty) Application for Employment, if one is not currently on file in Human Resources. Continued employment is contingent upon successful completion of a background check. After the background check is successfully completed, HR will notify the hiring official. On those rare occasions when the background check reveals information which bears a demonstrable negative relationship to the employee’s suitability to perform the required duties and responsibilities of his/her current position, the Office of Human Resources will provide guidance and a recommendation to the hiring department.

Subsequent Criminal Convictions
In the event that an employee subject to this policy receives a criminal conviction after successful completion of the initial background check, that employee may inform the Office of Human Resources in order to determine whether or not the conviction is relevant to his/her job under this policy. If the conviction is not relevant, no adverse action will be taken. If the conviction is relevant, employment may be terminated or the employee may resign. In either case, the employee will receive his/her accrued, unused annual leave. Employees who fail to notify Human Resources about a "subsequent criminal conviction" that proves to be relevant to their job, will be terminated for cause and will forfeit eligibility to receive payment for his/her accrued, unused annual leave.
Administrative Policy Manual

Policy: Background Checks
Contact: Maureen Curry/Michele Coneys

VPF:
Revision Date: 10/24/2002

Background Checks

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The following items will be included in the Background Check:

1. Credit Report
2. Social Security Number Fraud Detect
3. Criminal History – County, State, and/or Federal
4. Driving Record
5. Prior Employment Verification
6. Education Verification
7. Professional License Verification

Background checks for positions in Group I will commence January 1, 2003. Those positions in Group II will take effect beginning with the 03/04 Academic year.

1. Background Checks will be required for new employees being hired into the following positions and for current employees assuming the following positions, if a Background Check has not already been completed:

Group I (effective 1/1/03)

- All Officers of the University and their Assistants/Special Assistants, Associate Vice Presidents, Assistant Vice Presidents, Provosts and their Special Assistants, Associate Provosts, Assistant Provosts, Deans, Associate Deans, and Assistant Deans;
- All positions in the Departments of Career and Human Resources, Public Safety, Finance/Accounting, Purchasing, Information Resources and Technology, Enrollment Services, Financial Aid, Admissions and Campus Facilities;
- All exempt positions in the Departments of Student Affairs, Student Life (including Chaplains), Residence Life, Student Health Services, Counseling, International Student Services, Educational Opportunity Fund Program, Psychological Services, and Regional Center for College Students with Learning Disabilities;
- Exempt positions in University Advancement dealing with development/fundraising;
- All Athletic Coaches (full-time and part-time);
- Director of University Public Relations;
• Resident Assistants (only criminal history applies to this group); and
• Other positions as may be determined by the hiring official.

**Group II (effective 03/04 academic year)**

• All full-time faculty – credit report will not be included in this group's
  Background Check and,
• Faculty Department Chairs/School Directors.

2. The Background Check will be conducted prior to the offer of employment
   being extended or following a verbal offer with knowledge that a written offer
   is contingent upon the results of the background check.

3. The determination for fitness for employment will be made in consultation
   with Human Resources and the Hiring Official and if need be, General Counsel.

4. The cost of the Background Check will be paid for by Human Resources.

5. All Background Checks will be conducted in accordance with the Fair Credit
   Reporting Act and administered in accordance with the University's Affirmative
   Action policy. Applicants to whom tentative offers of employment have been
   made will be required to execute written consents authorizing background
   checks. FDU will keep confidential all information gathered in background
   history reports and will use the information solely for the purpose of
   establishing applicants' fitness for employment. FDU will not disclose
   background history reports or information contained in such reports to third
   parties without applicant consent, except if required by law. Results of
   background checks will be sent only to the Vice President of Human
   Resources.

6. Background history reports will be maintained in a secured file in the
   Human Resources department and only the Vice President of Human
   Resources and University General Counsel will have access to the file.

7. Background history reports for candidates found to be unfit for employment
   will be destroyed after a two-year period.

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Subject: Pre-Employment Screening

Hiring the wrong person can be devastating and very costly. Therefore, the University implemented a pre-employment screening process as part of its employment procedures. The University has contracted with an outside agency to provide this service. The cost for background checks will be the employing department's responsibility.

In order for the pre-employment screening process to achieve the desired results, departments must follow the procedures listed below:

**CLASSIFIED POSITIONS**
A criminal records search is required on all classified positions. The employing department should contact the HRM Employment Staff prior to making the job offer. A background check will be conducted on the candidate selected. An offer of employment may not be made prior to the completion of the background check. Background checks revealing misrepresentations may be grounds for immediate rejection of the application.

**FACULTY, OTHER ACADEMIC & PROFESSIONAL POSITIONS**

1. A criminal and civil records check and verification of social security number and education are required on all faculty, other academic and professional positions (including gratis positions). Departments should conduct their own reference check in addition to background check.

2. The department should have all the finalists sign the “Authorization to Release Information/Request for Background Check” form on the interview date and provide the applicant with the “Fair Credit Reporting Act Disclosure Statement” which is attached to the form. This form is available on the HRM website (www.lsu.edu/hrm) or by contacting Cindy Hudnall at 578-8286. Having all finalists sign the release form should expedite the selection process.

3. After the selection process is completed, the employing department should forward the signed “Authorization to Release Information/Request for a Background Check” form to Cindy Hudnall. A background check will then be initiated. The investigation takes up to five (5) working days, on average from receipt of completed form and resume, so provide HRM with the appropriate paperwork as soon as possible. If a copy of an official transcript or degree indicating highest degree earned is sent with the background check request, then this will serve as verification of education and the department will not have the expense of running education verification. The form, resume, and transcript/degree may be faxed to 578-5981, mailed to 304 Thomas Boyd Hall, or scanned and e-mailed to chudnall@lsu.edu.

4. An offer of employment may be made prior to the completion of the background check. However,
employment is contingent upon a satisfactory report. “Employment is contingent upon the completion of a background check and may be terminated upon receipt of the results of a background check deemed unsatisfactory by the Office of Human Resource Management” statement must be added to any contract, PAF 2, or offer letter if the background check is not completed. Background checks revealing misrepresentations may be grounds for immediate rejection of the application.

TEMPORARY POSITIONS
A criminal history check is required on all temporary positions including contingent employees with appointment periods exceeding 90 days. Contingent employees with appointment periods of 90 days or less are not required to have a criminal history check unless the position involves handling money, working with minors, or if the employing department requests the check to be conducted.

SERVICES & COSTS
Criminal records search is required for all classified positions. A criminal and civil records check and verification of social security number and education are required on all faculty, other academic and professional positions. Verification of previous employment is the responsibility of the hiring department. However, a request may be made to have employment verified as part of the background check. Any additional check beyond the required services is at the department’s discretion.

1. **Criminal Record Search** - A criminal record check (felony and misdemeanors) will be conducted on the applicant. The department will be charged $14.71 per county/parish of current or prior residence.

2. **Social Security Verification** - Verifies the applicant’s social security number. Other names associated with the number are also reported. Any fraudulent activity associated with the number is indicated in the report. $5.27

3. **Civil Litigation** - A civil record check (upper and lower courts) will be conducted at the applicant’s current parish/county of residence. If the individual has recently moved, the best parish/county will be chosen based upon the results of the current address check. $13.14

4. **DMV Search** - A record check of motor vehicle violations, including verification of license number, state of issuance, date, location, and description of violations. $12

5. **Education Background Check** - Verifies diplomas, certificates, and GPAs for either the highest increment of education listed on the application or verifies what is requested. $10.54

6. **Dates of Experience Verification** – Verifies dates of employment history. $10.08 per employer

If you have any questions on this procedure, please contact Cindy Hudnall at 578-8286. In the event that Cindy Hudnall is unavailable, please contact Lois LeBlanc at 578-8334.
Background Check Program

Background Check Implementing Guidelines with new charge rates (revised January 13, 2005)

Background Check Conditional Offer of Employment Letters

Fingerprint Authorization Form (revised April 1, 2004)

Last revised January 13, 2005

The background check policy covers career, limited appointment, contract, and casual-restricted (student assistant) positions. The policy covers ALL represented and non-represented staff and student personnel programs, including Senior Managers, Managers and Senior Professionals, and Professional and Support Staff. Police Officer and Public Safety Dispatchers will follow the mandates of the State of California, which require a more extensive background process to be handled directly by the Campus Police Department.

“Critical positions” are defined as positions that have or require:

1. Master key access to University facilities (e.g., custodians, police, telecommunication's crew, facility managers and other staff or student positions with master key access to any facility/building and/or campus residence).

2. Direct responsibility for the care, safety, and security of human beings, or the safety and security of personal or University property (e.g., physicians, nurses, student affairs officers, counseling psychologists, residence hall supervisors, coaches, or other staff or students providing professional counseling services directly to students and/or transporting staff or students).

3. Direct access to or responsibility for controlled substances (e.g., pharmacists, pharmacy assistants, physicians, nurses, and any other staff who have access to drugs used in medical offices and/or laboratories).

4. Extensive authority for committing the financial resources of the University (e.g., ALL MSP and Sr. Manager positions, directors, assistant/associate directors, management services officers, accountants, architects, buyers, and other staff that have the extensive responsibility for approving purchases or committing financial resources).

5. Direct access to or responsibility for cash, checks, or University property disbursements or receipts (e.g., cashiers, accountants, parking representatives, storekeepers, and other staff responsible for petty cash, distribution of employee salary or reimbursement checks, and invoice approval and payment).

For more information see:
- Personnel Policies for Staff Members, Policy 21.E
- UCD Procedure 21 Exhibit D
- UCD Policy & Procedure Manual Section 330-55
- UC Business & Finance Bulletin BUS-49.
CLAREMONT UNIVERSITY CONSORTIUM
Policy and Procedure Manual
Human Resources – 5000 – Policy # 5029

Policy No. 5029: BACKGROUND CHECK POLICY
Date: October 26, 2005

1. PURPOSE

This policy is intended to ensure Claremont University Consortium’s (CUC) mission and goals are
supported by hiring qualified employees to provide and maintain a safe and secure environment for all
CUC constituents, including students, visitors and employees; and to protect funds, property and other
assets associated with CUC programs and operations.

2. POLICY

This policy applies to external applicants, temporary employees, volunteers, interns, and CUC internal
transfer and promotional applicants being considered for appointment to a position designated as critical or
security sensitive (See -- Definition of Critical or Security Sensitive Positions).

Definition of Background Check

A background check is a process in which the specifics of an individual’s past history are verified for the
purposes of determining qualifications for employment, and may be conducted in addition to a reference
check. The type of background check conducted is dependent upon a position’s responsibilities and
required qualifications (See -- Definition of Critical or Security Sensitive Positions). CUC complies with
state and federal laws in conducting any background check. A background check may include one or more
of the following:

A. "Credit history check" means checking the credit history of the selected individual. (Federal laws
   prohibit discrimination against an applicant or employee as a result of bankruptcy.)

B. "Criminal history check" means verifying that the selected individual does not have any
   undisclosed criminal history in the jurisdiction where the individual currently resides or has
   resided. The criminal history check will seek information regarding only convictions, unless CUC
   is permitted or required by law to discover information about arrests.

C. "Educational verification" means ensuring that the selected individual possesses all educational
   credentials beyond high school listed on the application, resume or cover letter or otherwise cited
   by the individual that qualify him/her for the position sought.

D. "Credentials verification" means ensuring that the selected individual possesses all the licenses or
   certifications listed on the application, resume or cover letter or otherwise cited by the individual
   that qualify him/her for the position sought.

E. "Employment verification" means ensuring that the selected individual actually worked in the
   positions listed on the application, resume, or cover letter or otherwise cited by the individual that
   qualify him/her for the position sought, as well as all employment during a period of at least seven
   (7) years immediately preceding application at CUC. Verification includes dates of employment
   and reasons for leaving each position.

F. "Motor vehicle history check" means verifying that the selected individual possesses the
   appropriate type of driver’s license and does not have any undisclosed motor vehicle violations
   and citations that would make the individual unsuitable or ineligible to perform the responsibilities
   of the position.
Definition of Critical or Security Sensitive Positions

The Director of Human Resources, in consultation with the Director of the hiring department and subject to final approval by the CEO or designee, designates positions as "critical or security sensitive."

A. Regular Positions:

Positions designated as "critical" or "security sensitive" are typically responsible for or have access to one or more of the following:

1. Responsibility for the health, safety or security provided to minors or adults.

2. Access to and responsibility for the safety or security of CUC property and/or The Colleges.

3. Routine access to building master control and key systems.

4. Access to or responsibility for cash, checks, property disbursements or receipts that are entrusted to or are the property of CUC.

5. Access to or responsibility for credit data, credit account records or credit transactions.

6. Authority to commit CUC's financial resources through contracts.

7. Access to or responsibility for confidential information (electronic or paper) and/or have the capability to create, delete, or alter student, personnel, program participant, or financial data, records, or information.

8. Access to or responsibility for controlled substances or toxic, radioactive or hazardous materials.

9. Responsibility for operating motor vehicles, machinery or motorized equipment.

10. Other positions deemed critical or security sensitive by CUC based upon assigned position duties.

The above list is not exhaustive, and CUC reserves the right to add or delete positions at any time without prior notice.

B. Temporary positions, volunteers and internships:

Positions that are temporary, volunteer or internships may be subject to a background check based on the nature of the services provided. Consideration is given to assignments that include handling or access to cash, checks, property disbursements or receipts that are entrusted to or are the property of CUC; access to or responsibility for controlled substances or toxic, radioactive or hazardous materials; access to buildings or property of CUC or The Colleges; and/or responsibility for the health, safety or security provided to minors or adults.

C. Position Posting and Position Descriptions

All recruitment announcements, job postings, and position descriptions for critical or security sensitive positions state that the position is subject to a background check and the type of check(s)
required, and/or that the finalist(s) is required to provide verification of education, credentials, or submit a current driving record to verify whether the individual meets criteria to drive on CUC business.

Position Application and Authorization Requirements

A. The finalist(s) for a position requiring a background check must complete CUC’s Consumer Authorization for Background Investigation form.

B. The authorization form notifies the individual that having a criminal history, a criminal conviction, or a motor vehicle violation does not necessarily preclude employment. The nature of the offense and its relevance to the position are reviewed by CUC on a case-by-case basis.

C. The authorization form provides the finalist a summary of the individual’s rights under the Fair Credit Reporting Act.

D. A finalist who misrepresents or provides misleading or false information, or withholds information as part of the application process or the release authorization form process will be disqualified from further consideration. If the individual is a current employee, he/she may be subject to disciplinary action, up to and including termination.

Costs Associated with Conducting Background Checks

The hiring department is responsible for costs associated with conducting a background check.

Employment Offers

Appointment of an individual to a position is contingent upon CUC’s determination that the background check process is complete, sufficient, and has produced satisfactory results. Should the hiring department determine it is important to make an oral or written offer of employment prior to completion of the background check process, the hiring department must notify the finalist of the following: “This offer is contingent on CUC’s verification of credentials and other information required by CUC policies, including the completion of the appropriate background checks for this position.” No individual under consideration for a position requiring a background check shall commence employment until a satisfactory background check has been received.

Applicability to Current Employees

A current CUC employee will not be subject to a background check except under the following conditions:

A. CUC changes the duties of the position such that the position falls within the definition and guidelines provided in this policy;

B. There are changes in applicable laws or regulations requiring a background check that occur subsequent to when the employee was hired into the position;

C. The cognizant oversight or funding agency requires a background check;

D. Legislative changes occur during the term of the employee’s employment that enact new requirements or revise current requirements regarding the employee’s assigned job duties, responsibilities or functions; or
E. An employee promotes, demotes, transfers or is placed through layoff into a position that is designated critical or security sensitive and, therefore, must satisfactorily complete the appropriate background check(s) in order to assume the position. Refusal by an employee to complete and submit an authorization form when requested to do so under this policy will cause him/her to be eliminated from consideration.

Responsibility for Conducting a Background Check and Access to Records

A. All background checks described in this policy are conducted by the Office of Human Resources. Search committee chairs and department directors and staff are not authorized to conduct such checks. An applicant may also be required to provide verification of education and/or credentials, or submit a current motor vehicle record.

B. The Director of Human Resources and the Director of the hiring department review the results of each background check regarding applicability to the critical or security sensitive position for which an individual is being considered. Unsatisfactory results will be forwarded to the CEO or designee for further consultation. The Director of Human Resources, in consultation with Legal Counsel and/or the Director of Campus Safety when necessary, will evaluate the relevance of the criminal history of the individual. The nature of the offense and its relevance to the position will be considered on a case-by-case basis.

C. Supervisors, search committee chairs, and staff will not be provided information from the applicant’s authorization form or the results of a background check and will only be informed of a satisfactory or unsatisfactory determination.

D. Records pertaining to background check(s) will be retained in a separate, confidential file located in CUC’s Office of Human Resources.

E. Information obtained through a background check is considered sensitive and CUC will only disclose information on a need-to-know basis. Records will be maintained and disposed of by CUC Office of Human Resources compatible with restricted access.

F. The following records retention periods will apply unless a claim or litigation is pending:

1. CUC Consumer Authorization for Background Investigation form and satisfactory background check(s) documentation – 2 years

2. CUC Consumer Authorization for Background Investigation form and unsatisfactory background check(s) documentation – 2 years

Denial of Employment

A. Should the information received as a result of a background check be determined to be unsatisfactory and disqualify an individual for employment, the Director of Human Resources will notify the individual in writing about the determination. The notice will advise the individual that he/she may contact CUC Human Resources to inquire about the specific information that did not meet employment criteria for the position, and how the individual may dispute the accuracy of information when a check is conducted by a pre-employment background check screening company.
B. The Director of the hiring department may proceed with identifying the next qualified candidate in consideration for the position.

C. If the Director of the hiring department has not filled the position with another candidate, and the disputed check is later determined to be satisfactory, the Director may appoint the individual to the position. If the position is no longer available, the individual may apply for other positions.

Policy Modification and Applicant Rights

CUC reserves the right to modify or amend this policy as needed or required by applicable state or federal laws, rules and regulations.

Any decision to accept or reject an individual for employment is solely at the discretion of CUC. Nothing in this policy creates any right of action or claim by an applicant.

Provisionally approved November 3, 2005 by Brenda Barham Hill, Chief Executive Officer
Minnesota State University, Mankato
Background Check Policy

Certain statutes require that Minnesota State University, Mankato conduct criminal background checks on employees. (Minn Stat 299C.66 to 299C.71 – Kari Koskinen Manager Background Check Act, and Minn Stat 148A – Psychotherapist Checks).

You have certain rights under the criminal background check laws including:

1) to be informed that we are requesting a background check;
2) to be informed of the response to the background check and to obtain a copy of the report obtained;
3) to obtain from the superintendent of the Bureau of Criminal Apprehension any record that forms the basis of the report;
4) the right to challenge the accuracy and completeness of information contained in the report; and
5) the right to be informed if an application for employment has been denied as a result of the background check.

The law requires that if the applicant / employee has lived in Minnesota for less than ten years, the Minnesota Bureau of Criminal Apprehension (BCA) and the Federal Bureau of Investigation (FBI) must conduct a national criminal records search. In these situations, the university must provide a set of the applicant’s / employee’s fingerprints along with a Data Privacy and Consent form to the BCA. The Act requires that the employer pay for the security background check.

Applicants who fail background checks or have criminal backgrounds that preclude employment in certain positions shall have offers of employment withdrawn. Prior to withdrawal of employment offers, the university may wish to explore other options such as possible employment in other positions that are not affected by the criminal background. Current employees who are seeking to transfer or bid on a covered position and fail the background check will not be allowed to exercise bidding rights, or to accept reassignment to a covered position. Records pertaining to background checks will be placed in the employee personnel files and maintained in accordance with campus retention schedules.

By completing and signing the consent form on the opposite page of this policy, you authorize Minnesota State University, Mankato to request criminal background check information related to you.
CONSENT FORM

Employer:
Minnesota State University, Mankato
Office of Human Resources
336 Wigley Administration Center
Contact Person: Johanna Simpson
Personnel Assistant
Phone Number 389-2017

☐ We are requesting a federal background check on this individual as well.
(Please check this space if requesting a federal check and attach a fingerprint card. Note
that a federal check will take between six and eight weeks.

Applicant/Employee:

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Last Name (please print) ____________________________________________

2. First Name (please print) __________________________________________

3. Full Middle Name (Please print) ____________________________________

4. Maiden, Alias or Former Name(s) (please print) _______________________

5. Date of Birth _____________________________________________________

6. Social Security Number ____________________________________________

7. Sex (M or F) _____________________________________________________

8. A fully-rolled set of your fingerprints on an FBI Applicant card. (Provide only if a
federal background is requested)

Applicant/Employee Consent: A search of the Minnesota State Criminal Records
Repository and/or the Federal Bureau of Investigation’s Criminal Justice Information
Criminal Files will be performed on you pursuant to Minnesota Statutes Chapters
299C.67 to 299C.71. By signing this form, you are consenting to the background check,
and Minnesota State University, Mankato access to any criminal data maintained in the
above described files that applies under the statute.

I consent to this background check and to the release of the check to Minnesota State
University, Mankato.

(Signed) ________________________________

(Date) ________________________________