



08.151 BACKGROUND CHECKS OF EMPLOYEES

Authority: Chancellor

History: Revised August 21, 2018; Revised and retitled August 2017; revised September 29, 2008; revised February 10, 2008; revised August 17, 2007; established July 1, 2006; replaces temporary policy for summer workers (pilot project)

Source of Authority: UNC Code, Appendix 1, Section XV; Fair Credit Reporting Act (15 USC § 1681, *et seq.*)

Related Links: [Guidelines for Assessing Convictions](#) ; [N.C.G.S. § 126-30](#)

Responsible Office: Human Resources

I. Purpose

The overall purpose of this policy is to ensure well-informed hiring decisions and work assignments. It is important that UNCW's mission is supported by qualified employees who foster a safe and secure environment for all university constituents. In addition to the safety component, it is also important that the university take meaningful and reasonable actions to protect its funds, property and other assets.

II. Policy

- A. It is the policy of UNCW that offers of employment are extended to applicants contingent upon the successful passing of a criminal background check. This applies to vacant permanent positions of all categories, including faculty and staff, and certain volunteers and temporary positions, such as temporary faculty and those with regular, direct and unsupervised contact with students or minors. The results of the criminal background check will be used to ensure that the university is making an informed hiring decision. Applicants who refuse to consent to a criminal background check are not eligible for employment.
- B. The university reserves the right to conduct a criminal background check or other background checks (*e.g.*, sex offender registry, driving records) on a current employee. Situations in which this may occur include, but are not limited to: (i) if circumstances indicate criminal activity by this employee may have occurred; (ii) prior to placement with certain on- or off-campus populations, including, but not limited to, summer camp groups and clinical sites; or (iii) prior to assignment in positions requiring special considerations, such as use of state vehicles.
- C. All background checks will be conducted in compliance with the Fair Credit Reporting

Act (“FCRA”) and any other applicable laws. The background check will only be used for evaluating the applicant for employment, continued employment, or potential work assignment; it will not be used to discriminate on the basis of race, gender, gender identity, sex (such as marital status or pregnancy), age, color, national origin (including ethnicity), religion, disability, sexual orientation, genetic information, political affiliation, veteran status, or relationship to other university constituents.

III. Policy Provisions

- A. Only registration on a sex offender registry, criminal convictions, pleas that are acknowledgements of responsibility, and all pending criminal actions will be considered in determining an individual’s suitability for employment. If an applicant with a pending criminal case is hired, his or her continued employment will be reviewed upon disposition of the case. If a current employee is convicted of a crime or makes a plea of responsibility, and the university becomes aware of the conviction or plea, his or her suitability for continued employment will be reviewed (in the same manner as applicants for the position) upon disposition of the case.
- B. The information delineated above, in addition to other information, such as current status or placement on a sex offender registry, may be considered prior to continued employment or work assignments or placements involving youth, sensitive, or vulnerable populations, or other special considerations.

IV. Confidentiality and Record Keeping

The criminal, registry, and other background check records are considered part of the application or personnel file, as appropriate, and will be maintained in confidential files within the Human Resources Office. Under North Carolina law, applications and related materials are confidential personnel documents and not subject to public release.

V. Cost of Background Check

The hiring unit or employing unit, as applicable, will be responsible for the nominal fees associated with any of the components of the criminal or other background check process. If conducting the background check, Human Resources will bill the hiring unit in the same manner that vacancy advertisements in newspapers and/or journals are billed.

VI. Procedure for Background Checks during the Hiring Process

In accordance with FCRA, an applicant must personally authorize the background check in writing before it can be done. No criminal background check may be requested or conducted until this form is completed by the applicant. Human Resources will submit the request to the third party provider to conduct the criminal background check, which may include a sex offender registry check. In order to maintain the utmost discretion and confidentiality, results are provided to Human Resources. If any

candidate or employee chooses not to sign the Disclosure and Authorization Form, the university will not consider the individual further in the respective hiring process or placement.

VII. Employment Decision

- A. If no criminal convictions, pleas that are acknowledgements of responsibility, or pending criminal actions are indicated by the applicant, and if the result of the background check indicates no criminal convictions, pleas that are acknowledgements of responsibility, and all pending criminal actions, Human Resources will notify the hiring unit to proceed with the hiring offer.
- B. If the result indicates a criminal conviction, plea that is an acknowledgement of responsibility, or a pending criminal actions was disclosed, Human Resources will review the matter and clear the applicant for an offer if the conviction, plea, or pending matter is minor or routine, and unrelated to the position for which the individual is applying.
- C. If the result indicates a criminal conviction, plea that is an acknowledgements of responsibility, or a pending criminal action ,or registration on a sex offender registry that was not disclosed by the applicant, or was disclosed but cannot be cleared in the manner noted above, Human Resources will contact the applicant to confirm the accuracy of the information. The applicant has up to ten days to respond. Once the applicant has had a chance to respond, Human Resources will notify the designated divisional contact of the result.
 1. The divisional contact will evaluate the results as noted in the Evaluation Principles (below) and may utilize the Guidelines for Assessing Convictions and Pleas of Responsibility as They Relate to Certain Job Positions (“Guidelines for Assessing Convictions”).
 2. The divisional contact will use judgment in contacting the hiring department and make a decision to either approve the candidate for hire or wait for more information concerning the convictions. A decision to approve the candidate for hire will be recorded in writing by Human Resources. Any decision to hire a candidate with a significant conviction or plea, or to hire a candidate who did not disclose convictions or pleas in their application materials must be confirmed with the appropriate vice chancellor or dean, subject to the requirements of N.C.G.S. § 126-30.
 3. The divisional contact may make a hiring decision once the candidate has provided information concerning the conviction and it has been researched by the third party vendor (if necessary), or if the candidate has not provided a response and ten days have elapsed. If the decision is made not to hire the candidate, Human Resources notifies the candidate in writing of this decision and provides a copy of the background check results and a summary of rights, in compliance with the FCRA.

4. Human Resources will monitor hiring decisions for consistency and may confer with the Provost and Vice Chancellor for Academic Affairs and/or Chancellor as appropriate.

VIII. Evaluation Principles for Criminal Background Checks

- A. The university will determine an applicant's suitability for the position or continued employment based on a consideration of the nature and gravity of the crime, the nexus between the applicant's criminal conduct and the job duties, any mitigating or aggravating factors, the date of the crime and applicant's age at the time the crime was committed, the number of offenses and circumstances of each, the sanctions or sentence imposed and compliance therewith, the amount of time that has passed since completion of any sentence, the applicant's personal situation at the time of the crime if known, present situation and support system, responses provided by the applicant during the application process (if applicable), explanations or descriptions provided by the applicant, and the applicant's rehabilitation record. In these circumstances, the applicant may be asked to provide additional information regarding the conviction or plea that will help the university to make a final determination.
- B. The parameters listed in the Guidelines for Assessing Convictions may be considered in the decision making.
- C. If any conviction, regardless of category or severity, appears on a criminal background check report and the applicant did not fully disclose the conviction prior to the check, the applicant may be considered ineligible for employment based on falsification of application documents in accordance with N.C.G.S. § 126-30.
- D. Human Resources is authorized to ensure that the policy is applied in a consistent manner throughout the university.