

# **Criminal Background Check Implementation Policy**

## **University of Wisconsin-Eau Claire**

### **Statement of Policy**

The University of Wisconsin - Eau Claire, under the direction of University of Wisconsin System policy, is required to perform criminal background checks on prospective employees. This criminal background check is not a substitute for reference checks.

UW-Eau Claire is committed to providing a high quality, safe and secure environment for its students, workforce, partners and clients. One practice that aids in providing a safe and secure campus is the use of criminal background checks for prospective employees who are subject to a criminal background check. UW-Eau Claire will conduct criminal background checks for the following employee groups:

- a new hire for an unclassified, classified/LTE, intern or volunteer position. A 'new hire' in a faculty or academic staff position shall be defined as any prospective employee that is not currently a UW-Eau Claire employee or an employee of another UW System institution. A 'new hire' in classified service shall be defined as any prospective employee that is not currently a UW System or other State of Wisconsin agency employee
- current UW employees who are appointed to a position within the institution where criminal background checks are required by State and Federal law (for example: the Wisconsin's Caregiver Law (Wisconsin Statutes, Chapters 48 and 50), Fiduciary Responsibility Law (Wisconsin Statutes, Section 230.17(3) and other applicable laws)
- current UW employees who are appointed to a position within UW-Eau Claire where the majority of the position's duties will be performed within the residential facilities or the position is a position of trust
- student employees who are hired in positions where criminal background checks are required by State and Federal law (for example: the Wisconsin's Caregiver Law (Wisconsin Statutes, Chapters 48 and 50), Fiduciary Responsibility Law (Wisconsin Statutes, Section 230.17(3) and other applicable laws) or the majority of the position's duties will be performed within the student residential facilities or the position is a position of trust.

Current UW employees will not be subject to criminal background checks under this policy except as noted above.

Individuals who have been employed by any UW institution during the past year may be subject to Criminal Background checks at the discretion of the Office of Human Resources.

Pending criminal charges and convictions will be considered in appointment decisions only when the circumstances of the pending charge or conviction are substantially related to the job.

Background checks conducted by and for the University Police unit are completed according to the standards for law enforcement. Therefore, the University Police are not subject to the terms of this policy.

The University may choose to conduct background checks for all vacancies in all types of employment without exception, in accordance with this policy.

## **Department/Unit Procedures**

Position announcements/advertisements must include the following statement:

*Criminal background checks are required prior to employment.*

While interviewing candidates, the interviewers should not inquire about or discuss any aspect of candidates' criminal record. If a candidate asks questions about background checks, he or she should be told that a criminal background check will be conducted by another office. Any questions regarding criminal background checks should be directed to the HR Director.

Every effort will be made to assure a timely hiring process.

## **Procedures for Conducting Criminal Background Checks**

Criminal background checks will be conducted by the Office of Human Resources, which will ensure compliance with the Fair Credit Reporting Act (FCRA) if an outside vendor is used to conduct a check. The Director of Human Resources (HR Director) will serve as the custodian of the criminal background check record files and will maintain confidentiality of the records to the extent permitted by the Wisconsin Public Record Act and other applicable laws.

The finalist for a position is required to provide accurate background information necessary to conduct a complete check and authorize UW-Eau Claire to conduct the background check. (See Appendix #1.) These forms must be obtained separately from any application materials. A finalist who fails or refuses to complete these forms in a timely manner will not be considered further for employment. An applicant's failure to accurately and completely disclose his or her criminal conviction history may be grounds for removal from further consideration for a position.

When the finalist has been identified, the supervisor, the chair or director may contact the finalist, ascertain the individual's continued interest in the position and indicate employment is contingent upon the completion of a successful criminal background check as well as administrative approval.

The department chair, unit director, or supervisor will contact the Office of Human Resources to request the initiation of the background check and will be notified as soon as the background check is completed so that the offer of employment may be extended if appropriate.

All criminal background checks will include the review of records in any and all jurisdictions deemed appropriate. The HR Director will determine the scope of the check; normally the following checks will be conducted.

Background checks will be conducted by an outside vendor and will consist of all or a portion of the following:

- Social Security Number Trace (as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the individual)
- County(ies) of residence criminal records
- Federal Criminal Data Base
- National criminal database records
- Sex Offender Registry Searches
- International criminal records searches where appropriate

Criminal background checks conducted on foreign nationals will be subject to the following provisions:

- A criminal history check will be conducted covering time in the United States if the period of time that the individual has been in the United States exceeds six months.
- A criminal history check in the individual's prior country (ies) of residence will be conducted only if their country (ies) of residence provides criminal background information. Media searches are not considered a criminal background search.

The method of payment for criminal background checks is determined by the affiliated Division.

## **Criminal Background Check Consultation**

When there is a record of conviction or pending criminal charge disclosed during the criminal background check, the following individuals will review the results and determine whether the facts and circumstances of the individual's conviction have a *substantial relationship* to the duties and responsibilities of the job.

The HR Director or the Affirmative Action Officer Coordinator will review the record to determine if the nature and severity of any criminal offenses merit further consideration. (For example, an isolated misdemeanor, such as a traffic violation that has no substantial relationship between the charge or conviction and the position may be approved at the HR Director level.

If a criminal offense has any substantial relationship to the position, if there is a pattern of offenses, or if the nature of the offense is anything other than a minor violation, one or more of the following individuals will be consulted.

- Affirmative Action Officer
- UW System Legal Counsel
- Provost
- Vice Chancellors
- Associate Vice Chancellors
- University Police

If more information is needed, the applicable Dean, Director, Department Chair, or Supervisor may also be consulted.

When reviewing the results of the criminal background checks, consideration must be given to the individual's record on a case-by-case basis and consider the following factors:

1. The nature, severity and intentionality of the offense(s) including but not limited to:
  - a. statutory elements of the offense
  - b. age at the time of the offense(s);
  - c. number and type of offenses (felony, misdemeanor, traffic, other);
  - d. time elapsed since last offense;
  - e. probation or parole status;
  - f. whether the circumstances arose out of an employment situation; and
  - g. whether there is a pattern of offenses
2. The duties, responsibilities and circumstances of the position applied for, including but not limited to:
  - a. the nature and scope of the position, including key access to residential facilities, and other facilities, access to cash and to vulnerable populations, including minor children;

- b. the nature and scope of the position's student, public or other interpersonal contact;
- c. the nature and scope of the position's autonomy and discretionary authority;
- d. the amount and type of supervision received in the position or provided to subordinate staff;
- e. the sensitive nature of the data or records maintained or to which the position has access;
- f. the extent to which the position holds a measure of fiscal responsibility to the University;
- g. the opportunity presented for the commission of additional offenses;
- h. the extent to which acceptable job performance requires the trust and confidence of the employer, the University or the public

When there is a record of conviction or pending criminal charge disclosed during the criminal background check that could be substantially related to the position, the HR Director will inform the candidate, who will have the right to review the results of the background check and will be given a three working day time period to refute the information. Additional time extensions may be provided to the candidate at the sole discretion of the University.

If upon review of the record, a decision is made to disqualify a finalist on the basis of the criminal background check, the finalist will not be hired and must be informed by the HR Director and advised of the decision.

The results of the review and the final determination on individual cases are strictly confidential and will be released only on a need-to-know basis upon the express authority of the HR Director. The HR Director is responsible for documenting the decision to appoint or to refuse to appoint a candidate based on the result of the criminal records review.

When a decision has been made that an employment offer will not be made because the criminal offense is substantially related to the job, the decision of the Review Panel is final.

## **Records**

Records gathered as a result of a criminal background check will be kept by the Office of Human Resources in separate, sealed files segmented by the applicant/employee's name. The files will be maintained separately from an applicant/employee's general personnel file. The background check records will include the following:

- consent form,
- information collected from the background check,
- analysis and decision whether criminal activity (if any) was substantially related to the position,
- any correspondence related to the criminal background check

## **Confidentiality**

All persons receiving and reviewing criminal background information regarding an individual shall maintain strict confidence to the extent permitted by the Wisconsin Public Records Act and other applicable laws. Information and records gathered or created in the course of criminal background reviews will be securely maintained in the Office of Human Resources in a locked file separate from the personnel file for a period of seven years after the position has been filled.

**NOTE:** Any questions related to this policy, including interpretations and resource locations, should be directed to The Office of Human Resources.

Authority: Regent Policy #20-19, Resolution 9276, adopted 12/08/06

UWEC revised policy 8/08



## Letter of Notice to Finalists

Name  
Address  
City, State

### **RE: Criminal History Background Check**

Dear [-xxx]:

The University of Wisconsin-Eau Claire, under the direction of the University of Wisconsin System Policy, is required to perform criminal background checks on finalists for new positions. I am pleased to notify you that you are a finalist for the position of \_\_\_\_\_ in the [department/unit]. In order to complete the review and make a final hiring decision, it is necessary for you to fully complete and return the attached Job Application Supplement to me. Your response should be faxed (XXXX) or hand delivered to me no later than (X date).

Upon completion of a criminal background check, a final hiring decision will be made. As you can understand, we are motivated to make a timely hiring decision. To that end, please know that if you do not complete and return the enclosed form by the due date, you will not be considered further for this position.

If you have any questions regarding the application supplement, the criminal history background check or the recruitment process, please phone me at xxx-xxx-xxxx.

Sincerely,

Donna Weber, Director of Human Resources  
University of Wisconsin Eau Claire  
PO Box 4004  
Eau Claire WI 54702

Appendix 1

**JOB APPLICATION SUPPLEMENT FOR FINALISTS:**



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Street

City

State

Zip

DATE OF BIRTH: \_\_\_\_\_  
Month/Day/Year

SOCIAL SECURITY NUMBER: \_\_\_\_\_

DRIVER'S LICENSE NO. AND STATE OF ISSUE: \_\_\_\_\_

(Note: Driving record may be checked if relevant to the position)

GENDER: (Circle one)      Female      Male

Have you ever been convicted of a felony or misdemeanor? Note: Failure to disclose a conviction for any crime (meaning a felony or misdemeanor) may be considered an intentional omission.

Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, indicate below:

1. Nature of the Offense:

\_\_\_\_\_  
\_\_\_\_\_

Date of Conviction: \_\_\_\_\_

Name and Location of the Court:

\_\_\_\_\_

2. Nature of the Offense:

\_\_\_\_\_  
\_\_\_\_\_

Date of Conviction: \_\_\_\_\_

Name and Location of the Court:

\_\_\_\_\_

Attach additional sheets if necessary

3. Do you have any criminal charges **pending** against you? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes please indicate the nature of the charges:

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Name and Location of the Court or Jurisdiction:

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Additional Information:

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Attach additional sheets if necessary

**I agree that the University may conduct a criminal history background check. To the best of my knowledge, the information provided on this form is true and complete. I understand that falsification or omission of information constitutes grounds for not hiring me or for dismissal.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Return this completed form to:  
University of Wisconsin - Eau Claire  
Office of Human Resources  
Donna Weber  
220 Schofield Hall  
PO Box 4004  
Eau Claire WI 54702