

## **Employee Background Check Policy**

### **Purpose:**

The University of Alabama in Huntsville desires to provide a safe campus environment for its faculty, staff, students, and visitors and to protect its physical assets and resources. This background check policy is adopted to promote that objective by requiring background checks to be conducted on new hires, on a pre-employment basis, and, in certain instances, on existing employees.

### **Policy:**

The University will conduct pre-employment background checks on prospective faculty, staff, and student employees in all job classifications: regular full-time and part-time, temporary full-time and part-time, on-call, student workers, graduate teaching and research assistants, etc. A limited background check may also be conducted on existing employees who are being transferred or promoted. A background check may include, but is not limited to, a criminal records check, a sex and violent offender registry check, a driver's license and driving record verification, a credit history check, a degree/education verification, an employment history verification, and personal and professional reference checks.

A background check that utilizes the services of a third party vendor is generally subject to the requirements of the Fair Credit Reporting Act (FCRA). Such a process is utilized by the University to obtain a criminal records check, a sex and violent offender registry check, a driver's license and driving record verification, and a credit history check. The terms "FCRA background check(s)" and "FCRA background check information," and similar terms, are used in this policy to refer to the foregoing process and information. The remaining information is obtained by the University using its own personnel and is not subject to FCRA requirements. The terms "non-FCRA background check(s)" and "non-FCRA background check information," and similar terms, are used herein for this process and information. Use of the terms "background check" and "background check information" may include all of the information set forth in the previous paragraph.

A satisfactory background check shall be required for a candidate to be hired. A satisfactory background check is one that does not reflect adversely on the completeness, accuracy, or truthfulness of information provided by the candidate in the application process and that does not reflect adversely on the candidate's suitability for the position. Conversely, an "unsatisfactory" background check is one indicating that the information provided by the candidate is not complete, accurate, or truthful. Examples might include discovery that an candidate's statement about possession of an academic degree or the reason for leaving prior employment is not true. A background check producing unfavorable information regarding the candidate or existing employee is also considered "unsatisfactory." Examples of the latter might include a criminal conviction, a negative personal/professional reference response, or a poor driving record.

Untrue, inaccurate, or incomplete information provided by a candidate may be sufficient to remove him/her from consideration for the job. Unfavorable information will be considered in the selection decision to the extent that it is job-related and consistent with business necessity. The nature and circumstances involved in the matter, event, or incident giving rise to the unfavorable information will be considered, along with the extent or degree to which it may impact the candidate's ability to carry

out, and/or the candidate's fitness for, the responsibilities of the position. The determination of whether a background check is satisfactory or unsatisfactory will be made by the responsible reviewing University officials identified in attached Exhibit A corresponding to the type of position being filled.

Background checks will be carried out in a manner consistent with the requirements of applicable federal and state laws, including the FCRA and Title VII, Civil Rights Act of 1964.

**Procedure:**

A. Recruitment and Application

A pre-employment check will typically include a criminal records check, a sex and violent offender registry check, a degree/education verification, an employment history verification, and personal and professional reference checks. A driver's license/driving record verification will be conducted where required by University policy. A credit history check will be conducted where the duties of the position to be filled includes the handling of money and/or the management of financial operations.

All recruitment information (job postings, flyers, external advertising, etc.) will state that employment is contingent upon a satisfactory background check being obtained on a candidate. When applying for a position at the University, applicants will be advised that a satisfactory background check is a condition of employment. They will further be advised that all information provided on the employment application must be complete, accurate, and truthful, and that a failure to provide complete, accurate, and/or truthful information is grounds for eliminating the individual from consideration for employment or, if discovered after employment, for termination.

With respect to a FCRA background check, an applicant will be provided a written notice (in a stand-alone document) indicating the general kinds of information or report(s) that may be sought and stating that the information/report(s) may be used in making the employment decision. Other information as required by the FCRA will also be provided in this notice. The applicant will also be required to complete and sign a written authorization allowing the University to conduct the background check and to obtain the information and report(s) indicated. Refusal to sign the authorization form will result in the applicant's being eliminated from further consideration for employment.

B. Initiation and Receipt of Background Check

1. *Non-FCRA Background Check Information*

Non-FCRA background check information will generally be obtained on a pre-offer basis. Non-FCRA information will be obtained by the Human Resources Office for new staff employees and by the Provost, or designee, for new faculty employees.

2. *FCRA Background Check Information*

Once the recruitment/hiring process has reached the point at which a final candidate has been selected and approved in accordance with University hiring procedures, an offer of employment may be issued. The offer must include a statement that employment will be conditional upon receipt by the University of satisfactory results from a FCRA background check.

The Human Resources Office will determine the types of FCRA background check information that will be needed in consultation with the position supervisor for a staff employee and with the Provost, or designee, for a faculty position. The Human Resources Office will then be responsible for obtaining the FCRA background check information.

C. Results of Background Check

1. *Non-FCRA Background Check Information*

An applicant may, at the sole discretion of the University, be notified about unfavorable information obtained in connection with the non-FCRA background check and be provided an opportunity to explain. Such unfavorable information may, to the extent that it is considered by the appropriate University officials to be job-related and consistent with business necessity, eliminate the candidate from further consideration. The same process may be followed regarding information provided by the applicant that is discovered, as the result of a non-FCRA background check, to be incomplete, inaccurate, or untruthful.

2. *FCRA Background Check Information*

The FCRA background check must be completed with satisfactory results before a new employee begins work, except under special circumstances approved by the appropriate vice president.

FCRA background check information will be received by, or forwarded to, Human Resources. It will subsequently be shared with the responsible reviewing officials.

The results of a FCRA background check will be utilized in accordance with the following guidelines:

a. *Satisfactory FCRA Background Check.* If the FCRA background check is satisfactory, the individual will be approved and cleared to begin work.

b. *Unsatisfactory FCRA Background Check.*

If a FCRA background check contains information unfavorable to the applicant, the University will, before taking adverse action, and to the extent required by the FCRA, provide the applicant a copy of the report from which the information was derived and a written statement of the applicant's rights (the "pre-adverse action disclosure").

A criminal conviction that is disclosed in a *criminal background check* will be handled as follows:

- The conviction will only be considered in the selection decision to the extent that it is job-related and consistent with business necessity.

- A determination of the relevance, under the foregoing standard, of a criminal conviction to a candidate's suitability for a position and, if relevant, its impact on the employment decision will be made upon consultation between the responsible reviewing officials and the Office of Counsel.

- In making the foregoing determinations, the foregoing parties shall carry out an individualized assessment in which the following matters are carefully considered: the nature of the position, including the duties, the essential functions, the circumstances under which and environment in which it is performed, etc.; the nature and gravity of the offense for which the individual was convicted; the number of convictions; the circumstances involved in the conviction(s); the age of the individual at the time of the offense; the length of time that has elapsed since the conviction(s) and/or the completion of any sentence; rehabilitation efforts and the success thereof; and other pertinent matters.

- The individual candidate will also be notified that he/she may be deemed unsuitable for the position because of the conviction(s) and will be given the opportunity to provide information bearing on the issues set forth above in support of his/her hiring. This information shall also be considered as part of the individualized assessment.

Unfavorable information about an applicant disclosed in a *credit history report*, or any other type of unfavorable FCRA background check information, will only be considered in the selection decision to the extent that it is job-related and consistent with business necessity. Any determination of the relevance, under the foregoing standard, of unfavorable information will only be made upon consultation between the responsible reviewing officials and the Office of Counsel.

The University may take adverse action, such as revocation of the employment offer, based on information received as a result of the FCRA background check. If adverse action is taken, the University shall give the candidate notice of that fact along with other information required by the FCRA (the "adverse action disclosure").

D. Existing Employees.

As a general rule, existing employees will not be subject to the requirement of a background check. However, a satisfactory criminal background check and sex/violent offender registry check will be required, pursuant to the procedures set forth above, for any existing employee who is considered for a transfer or promotion to a position involving significantly greater authority or responsibility. The award of tenure to a faculty member shall be deemed such a "promotion" under this policy. In addition, a satisfactory credit history check will be required for an employee who is being considered for promotion or transfer to a position that involves the handling of money or the management of financial operations.

An existing employee who is convicted of a crime (other than a minor traffic violation) shall be obligated to inform his/her supervisor in writing of that fact within five (5) business days after the conviction. A criminal background check will then be conducted by the University. A determination of the relevance of any conviction(s) disclosed thereby and a decision regarding continued employment for the employee will be made, all in accordance with the procedures set forth above and other policies of the University.

E. Maintenance of Background Check Information

All background check results, reports, and information will remain confidential and will be disclosed only to University employees who have a need to know for the performance of their duties. The Human Resources Office will be responsible for maintaining such information. For existing employees, such information will be maintained as part of a confidential file in the Human Resources Office, separate from the employee's personnel file.

Maintenance and disposal of background check results, reports, and information will be carried out by the University in accordance with the requirements of the Fair and Accurate Credit Transactions Act of 2003.

OOC 09/01/13

## EXHIBIT A

<u>Type Employee</u>	<u>Action/Type of information</u>	<u>Reviewing parties</u>
<b>Faculty</b>	<i>Prospective employee:</i>	
	- FCRA* information	Provost and Dean
	- Non-FCRA+ information	Search Committee, Chair, Dean, Provost
	<i>Employee considered for promotion</i>	
- FCRA* information	Provost and President	
<b>Staff</b>	<i>Prospective employee - academic<sup>^</sup></i>	
	- FCRA* information	High level positions - Provost and President Other positions - HR, Supervisor, Dean, Provost
	- Non-FCRA+ information	High level positions - Search committee, Provost, President Other positions - HR, Supervisor, Dean, Provost
	<i>Employee considered for promotion - academic<sup>^</sup></i>	
	- FCRA* information	Dean, Provost, HR
	<i>Prospective employee - non-academic<sup>^</sup></i>	
	- FCRA* information	VP, HR, supervisor
	- Non-FCRA+ information	HR, supervisor
	<i>Employee considered for promotion - academic - non-academic<sup>^</sup></i>	
	- Non-FCRA+ information	HR, supervisor

\* Primarily, criminal convictions and sex/violent offender status. May also include credit record information.

+ Includes degree/education verification, employment history verification, and personal and professional reference checks

<sup>^</sup> "Academic employees" include staff employees working in academic units, such as a department, college, etc. "Non-academic employees" include all other staff employees.