

THE UNIVERSITY OF MISSISSIPPI

POLICY ON BACKGROUND CHECKS

Summary/Purpose:

The University of Mississippi is committed to protecting the safety and welfare of employees, students, and the general public, as well as preserving property and upholding the reputation and integrity of the University. The University requires a background check for each final candidate for all staff and faculty positions. Permanent, temporary, benefit-eligible, non-benefit eligible, full-time and part-time staff and faculty positions require an acceptable background check. External (Zero Pay) employees provided access to minors, sensitive information and/or secured areas as deemed by the sponsoring department will also require a successful background check. Offers of employment are contingent upon Equal Opportunity Regulatory Compliance and Human Resources approval and successful completion of a background check.

The Fair Credit Reporting Act (FCRA) mandates types of records that cannot be used to automatically deny employment such as arrests, expunged or sealed records.

Applicants with a criminal history will not be automatically disqualified from employment. Multiple factors will be taken into consideration.

The policy was revised and effective January 1, 2017. This version supersedes any previous version of this policy and procedure.

I. Positions Requiring a Background Check

The University of Mississippi requires a background check for each final candidate for staff and faculty positions. Permanent, temporary, benefit-eligible, non-benefit eligible, full-time and part-time staff and faculty positions require an acceptable background check.

A background check may be required when a temporary employee obtains a permanent position. Human Resources has discretion to determine if a recent background check has already been obtained.

Offers of employment are contingent upon Equal Opportunity Regulatory Compliance and Human Resources approval and successful completion of a background check.

Background checks may also be required for students and independent contractors under the "Minors on Campus" policy or due to student employment in sensitive areas (i.e., Student Housing).

II. Roles and Responsibilities

The Department of Human Resources ("Human Resources") is solely authorized to conduct and oversee the background check process. Human Resources contracts with an outside agency in executing the criminal, credit and motor vehicle background checks. Human Resources, in partnership with Equal Opportunity and Regulatory Compliance, is responsible for confirming decisions regarding what type of background check is appropriate, interpreting background

check records and information, determining whether an applicant is eligible for employment, and for making personnel recommendations to the hiring department. The University's Title IX Coordinator or designee is responsible for providing additional recommendation and interpretation for compliance under the "Minors on Campus" policy.

Notwithstanding this policy, nothing precludes Human Resources from conducting a background check on any individual when Human Resources, in consultation with the employee's department and the General Counsel office, determine that a background check is necessary.

Also, there are situations where criminal background checks may be required due to other criteria. Examples include but are not limited to grant submissions/awards or credentialing and licensing requirements.

All employees are responsible for ensuring the integrity and confidentiality of the background check process.

III. Procedures

A. Notice

The notice of the background check requirement is provided on the University's Employment site, within the job posting announcement, on the employment application, as well as on the applicant's application submittal confirmation email.

At the time of submitting an application, an applicant must certify that the information provided on the application and all supporting documents is true and correct, authorizes the release of information to the University concerning the applicant's employment history, work performance, or other work-related matters from prior employers and/or educational institutions.

A separate invitation is provided to the final applicant prompting the applicant to provide a social security number (or applicable government identification number) and to provide permission to conduct a criminal background review. Any applicant who refuses to consent to the background check, refuses to provide information necessary to conduct the background check, or provides false or misleading information will not be considered for the position for which s/he has applied. Should any false or misleading information be discovered after an applicant is hired, he/she may be subject to disciplinary action, up to and including termination.

B. Stage and Process to Request the Required Background Checks

Background checks are typically conducted after a single final applicant has been identified and recommended for employment. The results of the background check are not used as a screening tool and the details of the background check will not be provided to the search committee.

Background checks typically take 2-3 days to process and to receive back from the outside contracted agency. A few exceptions may last up to 2 weeks. Rarely, a background check may take longer, 3 to 4 weeks. If an incident is reported, the results will be reviewed by the Background Check Review Committee (discussed on page 4) and will take additional time. Hiring managers/departments should plan accordingly and anticipate a reasonable start date.

C. Pre-employment Background Checks

All pre-employment offers (faculty, coaching and executive positions) or recommendations for employment (staff positions) are contingent upon a satisfactory background check. Employment for all regular and temporary (with the exception of an emergency hire) positions shall not be effective until Human Resources has confirmed that the applicant has satisfactorily completed the background check. In the event of an “emergency hire” the individual may start in the position if the E-form has been initiated and the applicant has submitted the details, consented for the background check and the background check is in progress with the contracted outside agency. An example of an “emergency hire” is an Instructor hired just prior to the semester in order to meet an unplanned need. The offices of Equal Opportunity and Regulatory Compliance and Human Resources may determine if the hire is an emergency.

D. International Applicants

International applicants who come to the University directly from residence outside of the United States are not required to undergo a criminal background check as they have obtained necessary background clearances through the Department of Homeland Security. However, degree verification is still required.

In the case where a foreign national has not come directly to the University from residence outside of the United States, the individual is required to undergo a background check, permitted the individual has been in the United States for six (6) months or longer.

E. Reemployment and Reappointments

A returning retired employee, “retiree,” may not be subject to a background check if the individual is returning to a similar position within a year of the retirement date. A retiree with a break in service for more than a year and/or assuming a role of a security-sensitive nature is subject to a background check.

Adjunct appointments will not require a background check each semester or academic year as long as background check has been completed within the last three years.

Again, notwithstanding this policy, nothing precludes Human Resources from conducting a background check on a returning retiree or adjunct faculty member when Human Resources, in consultation with the employee’s department and the General Counsel office, determine that a background check is necessary.

All other former employees are subject to a background check upon returning to the University.

F. Promotions and Transfers

An employee may be subject to a background check when the employee is promoted/transferred to a position title that requires an additional level of background check (for example, the new position requires cash handling or is of a security-sensitive nature) unless Human Resources previously conducted a background check appropriate for the position within the previous year (12 months).

A background check will be required when a temporary employee obtains a permanent position. (Human Resources has discretion to determine if a recent background check has already been obtained).

G. Type of Background Check Required

Reference Checks are not part of this policy for background checks but must be completed on at least the final applicant. The hiring department is responsible for conducting reference checks through the search committee process.

A criminal history check must be conducted for all recommended and final applicants. A credit or financial history check must be conducted for the recommended and final applicant for a position that manages money or performs cash handling. A motor vehicle check must be conducted for final applicants for positions that include driving as a primary responsibility and essential functions or responsibilities that include driving a university vehicle.

H. Post-Employment Background Checks

A post-employment background check may be required due to a promotion or transfer (see above). The University of Mississippi may conduct post-employment background checks on employees as needed, such as but not limited to following any workplace violence incident involving the employee or when it is required to do so pursuant to state or federal laws, rules, or regulations. As a condition of continued employment, employees must consent to any post-employment background check as determined necessary.

IV. Policy and Procedures for Reviewing Background Checks and Reported Information

Incidents, other than unrelated misdemeanors, found through the background check process will be reviewed by the Background Check Review Committee. The Background Check Review Committee shall be comprised of the Assistant Vice Chancellor and Director of Human Resources and the Executive Director of Equal Opportunity and Regulatory Compliance. The Associate Director of Human Resources in the Department of Human Resources may serve as backup on the committee in the absence of either the Director of Human Resources or the Executive Director of Equal Opportunity and Regulatory Compliance.

The Fair Credit Reporting Act (FCRA) mandates types of records that cannot be used to automatically deny employment such as arrests, expunged or sealed records.

Applicants with a criminal history *will not* be automatically disqualified from employment. Multiple factors will be taken in consideration.

Extra considerations are often given to include:

- the nature and gravity of the offense(s);
- the time that has passed since the conviction and/or completion of the sentence;
- the nature of the position sought or held; and
- the accuracy of employment application;
- as well as preserving property and upholding the reputation and integrity of the University.

The Background Check Review Committee will not generally consider arrest information unless the arrest resulted in pending criminal charges. In such circumstances, the committee will contact the applicant, and may contact other parties, to obtain further information in order to assess reliability of the charge information. The committee will consider any information revealed regarding convictions, although a conviction shall not automatically preclude initial or continued employment.

In cases requiring review that involve a faculty member applicant, a representative from the Provost's office and the Dean, and if appropriate, the Chair of the hiring department will be consulted.

An applicant may be eligible to be considered with reservation. This determination may be made when the felony offense is not job related or serious enough to disqualify the applicant from employment. However, the committee has determined that the hiring department should be informed of the prior conviction or pending felony charges. Therefore, the Background Check Review Committee will contact the appropriate hiring decision maker with the results of the review.

V. Adverse Action Notification Procedures

If information is revealed in a criminal history, financial history, or motor vehicle check report that could potentially result in an adverse employment decision, Human Resources shall take the following steps:

A. Pre-Adverse Action Notice

Human Resources will notify the applicant in writing that negative information was revealed during the background check process which may impact the employment decision and will provide a copy of the supporting report to the applicant or employee along with a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The applicant or employee will be provided no less than five days to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation.

A final employment decision shall not be made until the applicant's or employee's new information has been considered or such time that the applicant or employee fails to respond as required.

B. Adverse Action Notice

If, after considering any applicant or employee response, the Background Check Review Committee determines that the negative information revealed results in an adverse employment decision, a second written notification will be sent to applicant or employee. This notice shall include the following:

- the name, address, and phone number of the vendor Consumer Report Agency (CRA) that supplied the report
- a statement that the vendor supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and

- a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days and to dispute with the CRA, the accuracy or completeness of any information in a consumer report furnished by the agency.

VI. Employee Self-Disclosure Requirements

A. Criminal Conviction or Felony Charge

All current employees are required to self-disclose post-employment criminal convictions or felony charges filed against them that occur on or after the effective date of this policy within three business days of the conviction or felony charge to Human Resources. Employees failing to self-disclose may be subject to disciplinary action, up to and including termination.

Managers/departments notified of a post-employment conviction or felony charge have an obligation to report the information to Human Resources. Managers failing to report the information may be subject to disciplinary action, up to and including termination.

B. Driver's License Suspension or Revocation

All current employees with primary responsibility for driving as written in the position description are required to self-disclose the post-employment suspension or revocation of a driver's license that occurs within three business days of the revocation to Human Resources. Managers notified of the post-employment suspension or revocation of a driver's license have an obligation to report the information to Human Resources. Managers failing to report the information may be subject to disciplinary action, up to and including termination.

C. Expenses

The third party agency conducting the background check will charge a fee for each check conducted, and as a rule, the Department of Human Resources will pay for this expense for the required positions (permanent, temporary, benefit-eligible, non-benefit eligible, full-time and part-time staff and faculty positions). Additional checks requested for other types of employment (independent contractors/consultants and students) will be covered by contacting/hiring department and the department will be responsible for reimbursing Human Resources for these expenses, if not directly billed by the contracted agency.

VII. Definitions

Background check:

Background check means the process of gathering and reviewing criminal history records, financial history records for applicable positions and/or motor vehicle records for positions that require a valid driver's license.

Conviction:

Conviction means a guilty verdict, a guilty plea or a plea of Nolo Contendere ("No Contest") of felony or misdemeanor, other than minor traffic offenses.

Credit history:

Credit history check means the process of gathering and reviewing financial history records or

information furnished by any court of civil law, credit reporting agency (credit report), or a third party vendor in the business of obtaining and providing credit reports.

Criminal History:

A criminal history check means the process of gathering and reviewing criminal history records or information furnished by a criminal justice agency or third party vendor in the business of obtaining and providing criminal history records relating to an individual's criminal convictions. A criminal history record does not include an individual's conviction records that have been sealed by court order. Criminal records include in-state, out-of-state and international criminal history, including misdemeanor and felony convictions.

MVR Check:

Motor Vehicle Check means the process of gathering and reviewing motor vehicle and/or driver's license records or information, including motor vehicle records from any state where the individual has resided.

Position types:

Permanent, temporary, benefit-eligible, non-benefit eligible, full-time and part-time staff and faculty positions require an acceptable background check. This policy also applies to student employees and independent contractors that fall under the requirements of the Minors on Campus policy, however, review and interpretation of the results are administered with the Title IX coordinator or designee.

Recommended and/or final applicant:

The recommended and final applicant means a current, former, or prospective employee recommended for hire, transfer or promotion (when applicable) and to whom a contingent offer will be made.

Security-sensitive:

Security-Sensitive means work that meets one or more of the following criteria: responsibility for patient, animal or child care in a child care center, access to "select agents or toxins" or "controlled substances" as defined under state and federal law; access to campus buildings where students and faculty reside (e.g. residence halls), the Recreation Center, Athletics Facilities and other secured facilities as determined at the sole discretion of Human Resources in consultation with the appropriate Department Head as needed; primary responsibility for driving a University vehicle, and positions with information technology responsibilities that meet the criteria for privileged access.

Temporary, Emergency Hires:

Temporary positions hired under an emergency circumstance are also subject to a background check; however the timing of the start date may be administered differently.

Any questions regarding this Policy should be directed to the Associate Director of Human Resources at (662) 915-1530 or the designee.