|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 4-OP-C-7-B11 | | CRIMINAL HISTORY BACKGROUND CHECKS | | | | |
| **Responsible Executive:** | | | Vice President for Finance and Administration | | | |
| **Approving Official:** | | | Vice President for Finance and Administration | | | |
| **Effective Date:** | | | As soon as 21-day notice runs | | | |
| **Revision History:** | | | Last revised 1-10-2017; 8-1-2015; 1-1-2014 readopted | | | |
|  | | |  | | | |
| I. | INTRODUCTION | | | | | |
|  | The Criminal History Background Check policy supports Florida State University’s efforts to promote a safe and secure environment for all students, employees, and visitors. All final candidates for employment with Florida State University for Faculty, AEX, A&P, USPS, and OPS positions, as well as some volunteers and University contractors, may be subject to criminal history background checks. Additionally, current AEX, A&P, USPS, and OPS employees and certain volunteers of the University may be subject to criminal history background checks when being considered for a new position/role, or when University management, in conjunction with the Office of Human Resources, Employee & Labor Relations section, has a justifiable reason pursuant to University procedures, policies, and practices. Current faculty members are not subject to criminal history background checks, unless required by law or when University management, in conjunction with the Office of Human Resources and the Office of Faculty Development and Advancement, has a justifiable reason pursuant to University procedures, policies, and practices. The need to conduct these background checks must be balanced with the need to protect the privacy of the applicant or employee. | | | | | |
|  |  | | | | | |
| II. | POLICY (Including any Forms and Attachments) | | | | | |
|  | **A.** **Types of Criminal History Background Checks**   1. Standard Criminal History Background Check (Standard Level Check): includes a seven-year county criminal history search, a Florida Department of Law Enforcement (FDLE) statewide search, a national criminal database search, a federal criminal search, and a National Sex Offender search. 2. Level 2 Criminal History Background Check (Level 2 Check): includes all components of the Standard Check, plus an FDLE statewide and FBI nationwide fingerprint-based check, and notification of any warrants or domestic violence injunctions the individual may have.   An International Criminal History Background Check must be conducted if a candidate has resided in another country for six months or more within the past seven years.  **B. Criminal History Background Check Requirements**  This policy applies to advertised and unadvertised positions. All advertised University positions that require a criminal history background check must have the requirement stated in the posting. This applies to both internal (OMNI HR) and external postings. The requirement to undergo a criminal history background check must also be listed in the official Position Description for AEX, A&P, and USPS positions. All criminal history background checks are coordinated by the Office of Human Resources, Employment & Recruitment Services section.   1. Pre-Employment Checks   Employees/volunteers cannot begin employment/volunteer assignments without successful completion of the required criminal history background check, unless prior written approval has been received from the Chief Human Resources Officer.   * 1. For salaried Faculty, AEX, A&P, and USPS positions:      1. A Standard Level Check is required on all final candidates.      2. A Level 2 Check is required for positions either when mandated under federal or state law or when designated by the University as positions of special trust or responsibility (reference Section 110.1127, Florida Statutes), with any of the following duties:      3. Providing care, treatment, education, training, instruction, supervision, or recreation to minors or other vulnerable populations (reference HR Glossary of Terms, Vulnerable Populations).   **Exceptions:**   * + - * 1. Students admitted to/enrolled in University courses at FSU are not considered “minors” for the sake of this policy.         2. A Level 2 background check will not be required on a **volunteer** if assisting with a program, activity, or group where all of the following apply:   They are volunteering on an intermittent basis for less than 10 hours per month, and  They will not be considered responsible for any vulnerable population, and  Others designated as responsible for any vulnerable population who have been properly screened are always present and in direct line of sight, and  There is no possibility that the volunteer would be left alone with a vulnerable population under any circumstances.  Even if a volunteer meets this exception, the Office of Human Resources will conduct a National Sex Offender Database Search on the individual before they begin volunteer service. If unfavorable results return, the volunteer will be disqualified from participation.   * + 1. Positions classified as Vice President level or above by job code/administrative code.     2. Positions with the FSU Public Safety Department (see Section 943.13, Florida Statutes) and positions with the FSU Panama City Campus Police and Public Safety Department.     3. Working with regulated materials regardless of quantity [e.g. Select Agents or Toxins (42 CFR 73.10), DHS Chemicals of Interest (6 CFR 27, App. A), DEA Controlled Substances (21 CFR 13101.90), NRC Radioactive Material (NRC EA-07-305) or those in facilities covered by a DOT Security Plan (49 CFR 172.800)], or for other positions/roles or contracted individuals that may have unescorted access to these materials.     4. If required by granting agencies for grants and contracts.   1. For OPS candidates (including OPS Faculty, Graduate Assistants, Postdoctoral Scholars, and Federal Work Study) and Volunteers:      1. A Standard Level Check is required only if their duties involve any of the following:   Performing fiscal duties to include budgeting, accounting, or having direct access to cash (except petty cash), checks, and/or credit/debit cards to include making and/or receiving payments.  Possessing system access that provides the ability to process payments, print or distribute checks, process corrections, or generate, update, or approve financial transactions that will result in the disbursement of University funds.  Control over University-wide operational processes through functional roles or system security access (e.g., restricted level access to institutional systems).  Access to sensitive, secure, and/or confidential personal information on individuals, such as students, faculty, staff, or alumni (e.g., social security numbers, dates of birth, financial account numbers, etc.).  Unrestricted access to department property inventory.  Authorization for a grand master or building master key and/or equivalent level FSUCard for building access (Reference Policy [4-OP-B-2](http://policies.vpfa.fsu.edu/policies-and-procedures/facilities-space/issuance-keysaccess-control) on Issuance of Keys/Access Control for key level definitions.).   * + 1. A Level 2 Check is required if assigned any duties of special trust or responsibility as defined above in Section II.B.1.a.2).   1. All Job Offers are contingent upon the successful completion of the University’s onboarding process and approval must be received from the Office of Human Resources for all appointments **before** the start of employment/volunteer service.      1. If a pre-employment criminal history background check is required, favorable results and approval must be received from the Office of Human Resources **before** the start of employment/volunteer service.      2. The following contingent language must be included in all Offer Letters: “Your job offer is contingent upon your successful completion of the University’s onboarding process before your start date, which may include a criminal history background check as well as compliance with State and University requirements.”   Criminal History Background Checks shall not be conducted more than 120 days (four months) before an employee’s start date, unless pre-approved by the Office of Human Resources.   1. Checks on Current Employees/Volunteers   Current employees/volunteers may be subject to a criminal history background check due to internal movement, reclassification, additional appointments, additional duties, or other justifiable reasons. The requirements are as follows:   1. Internal Movement: Internal movement refers to advertised and non-advertised actions including: promotions, laterals, demotions, reassignments, and transfers.   1) AEX, A&P, and USPS employees, or other employees moving into such positions, require a Standard or Level 2 Check if the new duties meet the criteria above in Section II.B.1.a.1) or 2).  2) Salaried Faculty members, or other employees moving into such positions, require a Level 2 Check if the new duties meet the criteria above in Section II.B.1.a.2).  3) OPS employees (including OPS Faculty and Federal Work Study), or other employees moving into such positions, require a background check if the duties meet the criteria above in Section II.B.1.b.1) or 2).  Additionally, if an OPS employee (except for Graduate Assistants) is unfunded for 90 days or more, a new check is required if the duties meet the criteria above in Section II.B.1.b.1) or 2).  4) Graduate Assistants with new duties that meet the criteria above in Section II.B.1.a.2), require a Level 2 Check.  Graduate Assistants who have undergone a background check are not required to complete another background check of the same level during their assistantship.  5) Current Volunteers moving into a new volunteer role require a background check if the new duties meet the criteria above in Section II.B.1.b.1) or 2).  6) Additional Appointments or Duties: a background check is required for any employees receiving additional appointments or duties if the new responsibilities require a higher level check than previously conducted (reference Section II.B.1.a. and b.).  7) Reclassification of Faculty, AEX, A&P, and USPS positions: A Level 2 Check will be required if the new duties meet the criteria above in Section II.B.1.a.2), if one has not previously been completed.  b. Exceptions: If the employee/volunteer has had the same level of check within 1 year (12 months) of the anticipated start date, the Office of Human Resources will reference the background check on file for the new appointment/role.  c. A criminal history background check may be conducted on a current employee for compliance purposes (e.g., required by law) or if the University management has reason to believe an employee falsified the employment application, or for other justifiable reasons. The Office of Human Resources, Employee & Labor Relations or Faculty Relations sections, shall be consulted:   * Before any criminal history background checks are performed on current employees who are not applying to an advertised position or being reclassified in their current position; and * Will provide guidance to the department if a current employee’s criminal history background check reveals any previously undisclosed felony or first degree misdemeanor charges.   d. All current employees (excluding Faculty) must inform their supervisor within two business days if arrested for any felonies or first degree misdemeanors (or the equivalent thereof in another state). The employee must also notify their supervisor of the final disposition of their case within two business days. In both circumstances, the supervisor must immediately consult with the Office of Human Resources, Employee & Labor Relations section, to determine if the offense is job related and for additional guidance.   1. Checks on Returning Former Employees/Volunteers 2. All former employees: A background check is required if terminated in OMNI HR for 31 days or more and the new duties meet the criteria above in Section II.B.1.a. or b.   Additionally, with the exception of Graduate Assistants, OPS who are unfunded for 90 days or more require a new background check before funding will be reinstated, if the duties meet the criteria above in Section II.B.1.b.1) or 2).   1. If terminated in OMNI HR for less than 31 days, the Office of Human Resources will reference the last background check on file if conducted within the last year (12 months). If no background check has been completed within the last year or a higher level check is required, a new check must be conducted. 2. For Volunteer roles that require a background check (reference Section II.B.1.b.1) or 2)), a new check is required for any break in volunteer service of 90 days or more. Otherwise, the Office of Human Resources will reference the last background check on file. 3. Summer Camps     1. Summer Camp Candidates & Volunteers: each year all new and current candidates or volunteers being considered for a summer camp must have a Level 2 Summer Camp Background Check by The Florida Department of Children and Families (DCF) through the Care Provider Background Screening Clearinghouse. Refer to the Summer Camp Page of the Background Check Website for additional details and the required forms.    2. Summer Camp Background Checks must be conducted within 60 days before the start of employment or volunteer service with the camp.   **C. Criminal History Background Check Results**   1. If a criminal history background check reveals any criminal history, the Human Resources Criminal History Background Check Committee will review the report and make a recommendation to the department. If the candidate is applying for a faculty position, the Office of Faculty Development & Advancement and/or the Office of the Provost will review all adverse actions before they become final.      1. The existence of criminal history does not automatically disqualify individuals from employment. Each case will be reviewed on its own merits with respect to the factors outlined below; however, any false answers, statements, or omissions made on the employment application may be grounds for rejection as a candidate for employment or immediate discharge, if employed.    2. In accordance with Equal Employment Opportunity Commission (EEOC) guidelines, the Human Resources Criminal History Background Check Committee takes the following factors into consideration when reviewing criminal history records:       1. The nature and gravity of the offense or conduct;       2. The time that has passed since the offense, conduct and/or completion of the sentence; and       3. The nature of the job held or sought.    3. FSU complies with the [Fair Credit Reporting Act](http://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-credit-reporting-act) when completing background checks. 2. An unfavorable background check for one position does not prohibit an applicant from applying and being considered for other positions.   **D. Other Considerations**   1. Generally, departments are not authorized to conduct background check investigations independently; however, certain departments are required to ensure completion of special background screening per Florida Statutes. This special level of screening must be done in consultation with the Office of Human Resources, but is not performed by the Office of Human Resources. The department is responsible for submitting documentation of special screenings to the Office of Human Resources for review and approval. This includes Background checks performed pursuant to the following Florida Statutes:      * + 1. Screening at the school district level per Section 1012.32, Florida Statutes.     2. Screening for child care centers per Section 402.305, Florida Statutes.     3. Screening for summer camps per Section 409.175, Florida Statutes.     4. Screening for FSU Law Enforcement Officers per Section 943.13, Florida Statutes.  1. In accordance with Section 435.06, Florida Statutes, any person who refuses to undergo a criminal history background check or refuses to submit fingerprints may be disqualified for employment or, if employed, may be dismissed. 2. In accordance with Section 775.16, Florida Statutes, any prospective Faculty, AEX, A&P, USPS, and OPS candidates who have been convicted of a felony for the sale of or conspiracy to sell or traffic a controlled substance committed on or after October 1, 1990, as defined in Chapter 893, Florida Statutes, are disqualified for employment at Florida State University unless the provisions and conditions listed in Section 775.16, Florida Statutes, are met and evidence is reviewed and approved by the Office of Human Resources.   Required evidence is as follows:   1. Evidence of completion of all sentences of imprisonment or supervisory sanctions imposed by the Court, by the Parole Commission or by the law; or 2. Evidence of completion of or enrollment in a drug treatment and rehabilitation program which was specified by the Court, the Parole Commission, or the Department of Corrections and approved by the Department of Health and Rehabilitative Services, unless the program certifies that the person does not have a substance abuse problem; and 3. Evidence of compliance with the requirement to submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. 4. Generally, the University does not conduct credit checks. If you have a specific job-related reason to conduct a credit check, prior written approval must be received from the Chief Human Resources Officer. 5. If a department is audited and/or receives a request to share the results of a criminal history background check, please consult with the Office of Human Resources, Employment & Recruitment Services section, for guidance. 6. Departments will be responsible for the cost of the background check. Please refer to the [Criminal History Background Check Process document](http://www.hr.fsu.edu/PDF/Forms/employment/Police_Background_Check_Processes.pdf) for additional details and instructions on requesting a criminal history background check. | | | | | | |
|  |  | | | | | |
| III. | LEGAL SUPPORT, JUSTIFICATION, AND REVIEW OF THIS POLICY | | | | | |
|  | The Board of Trustees has delegated its authority over personnel programs to the President which is further delegated to the Vice President. Constitutional authority, state statutes, federal statutes Florida Board of Governors regulations, and University regulations authorize the policy:  Florida Constitution Article IX, Section 7;  Florida Statutes Chapter 435; Sections 110.1127; 402.305; 409.175; 943.13; 943.0542; 1001.706(6)(a); 1012.32;  Florida Board of Governors Regulation 1.001(5)(a);  Florida State Board of Trustees Regulation FSU-4.001; and  Fair Credit Reporting Act 15 U.S.C. § 1681 et seq.  This policy shall be reviewed by the Chief Human Resources Officer every seven years for its effectiveness. The Office of Human Resources shall make recommendations to the Vice President for Finance and Administration for any modification or elimination. | | | | | |
|  |  | | | | | |
|  | | | | | | |
|  | /s/ Name of Approving Official | | |  |  |  |
|  | [Proof of approval retained in file] | | |  |  |  |