

Criminal Background Check Policy Questions & Answers

Q: What is the effective date of the University of Wisconsin-Superior Criminal Background Check (CBC) Policy?

A: **December 1, 2007**

Q: What does the CBC policy require?

A: **The policy requires that UW-Superior conduct a CBC on each new hire for a University position.**

Q: What positions are covered by the CBC policy?

A: **The policy applies to all unclassified, classified, student, temporary, ad hoc and LTE appointments. All new employees who have not previously been employed by the University or another UW system institution or in the case of Classified Service, employed by the State of Wisconsin; or previously employed individuals who have had a break in service of 12 months or more will require a CBC. Current employees of the UW System or state agencies transferring to UW-Superior will not be subject to a CBC unless a check would otherwise be required by law (e.g., fiduciary responsibility law or caregiver law) or policy.**

In addition, a CBC would be required for certain changes in employment status. An LTE appointment changing to a classified staff position is considered a new hire as well as a student employee changing to an unclassified position.

Q: How will CBCs be conducted on foreign nationals?

A: **The following provisions apply to CBC for foreign nationals:**

1. **If the individual has lived in the United States for less than six months, a CBC will be conducted in the individual's prior country(ies) of residence if the country(ies) of residence provides criminal background information.**
2. **If the individual has lived in the US for more than six months, a CBC will be conducted both in the individual's prior country(ies) of resident and in the United States.**
3. **Human Resources will make every effort to ensure international searches are conducted as timely as possible.**
4. **Media searches are not considered a criminal background search.**

Q: Does UW-Superior conduct other CBC checks?

A: **Other checks may already be conducted on campus due to job duties covered by the Wisconsin Caregiver Law, Fiduciary Responsibility Law, or a similar law requiring a CBC or that UW-Superior considers a position of trust. For example, Police Officers are required to undergo checks which are conducted under the direction of the Director of Campus Security. The Human Resources Department does not process the checks indicated above unless requested to do so in the hiring process.**

Q: Can a new hire begin work prior to the final approval of a CBC?

A: **No, individuals may not begin employment until they have successfully completed a CBC. A CBC will be conducted on candidates recommended for hire, either prior to the extension of an offer or as part of an offer of employment that is made contingent on a successful criminal background check.**

Q: How much will the CBC requirement delay the recruitment process?

A: **Generally, Human Resources will receive results in two days.**

Q: Who assumes the cost and what are expected costs?

A: **The hiring department is responsible for costs associated with a CBC which will be paid through a central fund. Generally, a CBC will average \$50.00, while a student CBC will average \$15.00. International searches are higher and differ according to the country.**

Q: Who conducts the CBC?

A: **The CBC will be conducted through the Human Resources Department. UW-Superior has contracted with an outside vendor, Hire Right, to perform the checks. A key component of this role involves keeping information confidential except on a need-to-know basis or as required by the Public Records Act.**

Q: What does the CBC entail?

A: **The standard package for criminal background checks conducted through Hire Right, Inc. includes:**

- **Social Security Number Trace – Authenticates applicant’s information and generates a list of addresses the applicant has lived at for the last seven years; as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the applicant.**
- **Criminal Felony/Misdemeanor by county of residence – superior and municipal court records in any county in the US.**
- **Sex Offender Registry – sex offender search by state.**

Q: What steps should be taken when ready to make a contingent offer of employment, but prior to the CBC?

A: **The Department Chair or Supervisor is responsible for notifying Human Resources that a CBC needs to be conducted. The Department Head or Supervisor will notify Human Resources of the final candidate including address, phone number and e-mail address of prospective employee. Human Resources will provide the applicant with the necessary paper work for CBC consent, along with a time line for returning the information to Human Resources. Human Resources will obtain the completed consent form directly from the candidate. Any available resume/vita/employment application also should be provided to Human Resources. Human Resources will initiate and complete the CBC along with any other approval processes following receipt of the consent form. The Financial Aid Office will notify Human Resources of pending student employments.**

Q: Is consent required from a prospective new hire to do a CBC?

A.: **Yes, the consent form is required by federal and state law. Individuals who decline to sign the consent form will no longer be considered a candidate for the vacancy. The candidate will submit the consent form directly to Human Resources where it will be maintained in confidence to the extent permitted by the Wisconsin Public Records Act and other applicable laws.**

Q: If the CBC reveals a criminal conviction or pending charge, what steps will Human Resources take?

A: **Wisconsin’s Fair Employment Act states that employers cannot discriminate against prospective or current employees based on past or pending arrests or convictions. There are exceptions to the requirement if a “pending criminal charge” or “conviction records” is determined to be “substantially” related to the “circumstance of the particular job”. To determine if there is a “substantial” relationship, the circumstance of an offense will be compared to the circumstances of a job. The more similar the circumstances are, the more likely a “substantial” relationship exists.**

If the CBC uncovers a pending criminal charge or a criminal conviction, the Chancellor, Provost, Vice Chancellor of Administration and Finance, and the Chair of the affected governance group, as appropriate, will consult with Human Resources, UW System Legal Counsel, and the Affirmative Action Officer, to determine whether the criminal activity is substantially related to the functions of the position.

Q: Who makes the final decision?

A: **The Chancellor, Provost, Vice Chancellor for Administration and Finance (or their respective designees) and Chair of the affected governance group, in consultation with**

Human Resources, UW System Legal and the Affirmative Action Officer, will make the final determination on whether to appoint or reject the candidate on the basis of a CBC.

Q: What rights do individuals have under this policy?

A: **The vendor, Hire Right, must comply with the Wisconsin Fair employment Act, the federal Fair Credit Reporting Act (FCRA) and other applicable laws to ensure individuals are not discriminated against because of arrest or conviction records. For example, if criminal background information is found which could lead to adverse employment action, the individual must be notified of the findings, provided a copy of the report, provided a copy of the “Summary of Your Rights Under the FCRA” and provided the opportunity to respond.**

Q: If a candidate is not selected based on the CBC results, what happens?

A: **The results will be provided to the candidate by Human Resources and the candidate will be given a three working day time period to refute the information. Additional time extensions may be provided to the candidate at the discretion of Human Resources.**

Q: Who see or hears about the results of a check?

A: **Information collected in connection with the background check will be treated confidentially to the extent permitted by the Wisconsin Public Records Act and other applicable laws. An individual(s) in Human Resources will be designated as responsible for all aspects of conducting criminal background checks and appropriate training shall be provided.**

Q: What happens to the information from the CBC?

A: **Human Resources will be responsible for documenting the basis for the decision to appoint or to refuse to appoint a candidate based on the CBC review. Records gathered as a result of a CBC will be kept by Human Resources in separate, sealed files segmented by the applicant/employee’s name. The files will be maintained separately from the applicant/employee’s general personnel record. The records will be securely maintained for a period of seven (7) years after the position has been filled, and may be accessed only on a need-to-know basis or as required by applicable law. The records will be destroyed in the eighth year after the hiring decision as been made.**

Q: What changes must be made in vacancy notices and ads?

A: **All vacancy announcements must contain the following statement: “Employment will require a criminal background check”**

The following language will be added for full ads:

“Employment will require a criminal background check A pending criminal charge or conviction will not necessarily disqualify an application. In compliance with the Wisconsin Fair Employment Act, UW-Superior does not discriminate on the basis of arrest or conviction record.

Q: If I have more questions who should I contact?

A: **Any questions related to the policy, including interpretations and resource locations should be directed to the UW-Superior Human Resources Office, Main 201, PO Box 2000, Superior, WI 54880, 715.394.8220.**

Q: Where does the authority for policy come from?

A: **Regent Policy #20-10, Resolution 9276, adopted 12/08/06.**