

**University of WI-Superior
Criminal Background Check Policy**

Policy subject: Criminal Background Check
Cabinet Division: Administration & Finance
Effective Date: March 1, 2013

I. Scope

This policy describes the Board of Regents expectations of University of Wisconsin System institutions and the University of Wisconsin System Administration in performing criminal background checks on applicants for employment, current employees, and volunteers.

II. Purpose

The University of Wisconsin System prioritizes safety and strives to provide a safe learning and working environment. This policy establishes consistent standards for criminal background checks.

III. Policy Statement

Except as otherwise provided in this policy, UW-Superior shall conduct a criminal background check on each new hire for a University position. Criminal background checks shall be conducted on candidates recommended for hire, either prior to the extension of an offer of employment, or as part of an offer of employment that is made contingent upon a successful criminal background check.

A criminal background check shall also be conducted on current employees and volunteers holding a “position of trust with access to vulnerable populations” as defined in paragraph 4.1(a) of this policy who have not previously been subject to such a criminal background check by the University. Employees and volunteers holding a position of trust with access to vulnerable populations shall be subject to a criminal background check every four years, and shall be required to self-disclose any criminal arrests, charges or convictions (excluding misdemeanor traffic offenses punishable only by fine).

IV. Policy

4.1) Positions of Trust

A “position of trust” is defined as a paid or volunteer position with one or more of the following responsibilities:

a. Access to vulnerable populations

Responsibilities require unsupervised or significant access to vulnerable populations, defined as minors and medical patients. For purposes of this policy, a minor is a person under the age of eighteen (18) who is not enrolled or accepted for enrollment at a UW System institution. Examples of settings with vulnerable populations include child care centers, summer camps for minors, precollege or enrichment programs, and health care facilities. This category also includes employees who are not directly working in those units, but have unsupervised access to the unit when the vulnerable population is

present. This category does not include faculty or instructional academic staff performing regular teaching, service, and research responsibilities unless these responsibilities include unsupervised or significant access to vulnerable populations.

b. Property Access

Responsibilities require the use of master keys/card access and pertain to employees with key access to offices, facilities, or worksites other than their own worksite, including UW-Superior residential housing facilities.

c. Financial/Fiduciary Duty

Principal responsibilities (50% or more) require handling, receiving, or having custody of money, checks, securities, or accounting for supplies or other property; authorizing (or making appropriations for) expenditures; approving, certifying, signing or countersigning checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or service of process; maintaining or auditing accounts of money, checks, securities, time records, supplies, or other property, or taking physical inventories of money, checks, securities, supplies, or other property.

d. Executive Positions

Responsibilities involve top-level management functions throughout the institution including roles as Chancellor, Provost, and Dean. Executive positions are defined as all limited appointments and include any movement from a limited appointment to a different limited appointment.

4.2) Coverage of Prospective Hires and Employees

Criminal background checks must be conducted on prospective hires who are not University of Wisconsin employees, and on employees currently not in a position of trust who are seeking to move to a position of trust within the University through promotion or otherwise. A prospective hire includes temporary or limited term employees, student employees, interns, and graduate assistants in accordance with this policy. If a former employee is being rehired following an absence of one year or less, Human Resources will determine whether another criminal background check will be completed.

Criminal background checks must be conducted on current employees holding a position of trust with access to vulnerable populations, as defined in 4.1(a) of this policy, who have not previously been subject to a criminal background check by the University. UW-Superior will conduct a criminal background check every four years on employees and volunteers in a position of trust with access to vulnerable populations.

4.3) Coverage of Vendors and Contractors

To the maximum extent feasible, any agreement with a vendor or contractor whose employees, affiliates, or volunteers will have routine or unsupervised access to vulnerable populations (minors or medical patients) in the course of the contract must include a representation from the vendor or contractor stating that these employees, affiliates, or volunteers have satisfied a criminal background check conducted by a

criminal background check vendor selected by the contractor that includes a check of the vendor's proprietary national criminal background check database.

4.4) Coverage of Volunteers

UW-Superior will perform criminal background checks on prospective volunteers when the volunteer position involved is a position of trust, or when required by law to perform criminal background checks for specified volunteer positions. Otherwise, UW-Superior may determine whether a criminal background check should be conducted on prospective volunteers. In making this determination, institutions should consider the level of direct supervision and guidance provided to volunteers and the nature of the duties of the volunteer position.

Criminal background checks must be conducted on current volunteers holding a position of trust with access to vulnerable populations, as defined in paragraph 4.1(a) of this policy, who have not previously been subject to a criminal background check by the University. UW-Superior will ensure that a criminal background check is performed every four years on volunteers in a position of trust with access to vulnerable populations.

4.5) Coverage of Certain Users and Lessees of University Lands and Facilities

Facilities Use Agreements or leases with outside organizations that use or lease University lands and facilities to operate multi-day programs for minors, or programs for minors that involve an overnight stay, must include a representation from the organization that its employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected by the organization that includes a check of the vendor's proprietary national criminal background check database.

4.6) Conducting Criminal Background Checks

a. Finalists for employment must complete and sign a criminal background check authorization form. An applicant's failure to consent to a criminal background check or falsification of any related information is grounds for the rejection of the applicant. Similar procedures must be implemented for current employees, volunteers and prospective volunteers who are subject to criminal background checks.

b. A criminal background check on prospective hires, employees and volunteers must include a check of the Wisconsin Department of Justice, Criminology Bureau electronic database, and a check provided by a criminal background check vendor that includes the following components:

- Social Security Number Trace

Authenticates the individual's information and generates a list of addresses the individual 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 individual.

- Criminal Felony/Misdemeanor by County of Residence
Superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.
- Sex Offender Registry
Sex offender search by state.
- National Criminal Background Database
Search of the vendor's proprietary national criminal background check database.

c. UW-Superior will comply with the federal Fair Credit Reporting Act (FCRA) when retaining a vendor to perform criminal background checks.

d. Additional criminal and non-criminal checks (e.g., motor vehicle, etc.) may be run when appropriate in relation to the position.

e. UW-Superior must conduct an appropriate U.S. criminal background check on an applicant for employment, current employee, or volunteer who is a foreign national and subject to this policy. A criminal background on the individual's prior country(ies) of residence will be also conducted if his/her country(ies) of residence provides a criminal background check for the time period during which the individual was a resident. A media search is not considered an appropriate criminal background check and, therefore, UW-Superior will not be required to conduct media searches.

4.7) Application of the "Substantial Relationship" Test under the Wisconsin Fair Employment Act

Wisconsin law prohibits an employer from discriminating against an applicant or employee on the basis of arrest or conviction record unless the pending criminal charge or conviction substantially relates to the circumstances of the position. Applicants with a criminal history will not be automatically disqualified from UW System employment, and a UW System employee's criminal history will not result in automatic disciplinary action or dismissal. If an applicant's or employee's criminal background check reveals a pending criminal charge or criminal conviction, UW-Superior will engage in an individual analysis to determine whether a substantial relationship exists between the pending charge or criminal conviction and the functions of the position.

The following factors will be used in consideration when determining whether there is a substantial relationship between a pending charge or conviction and the position:

- a. The Offense. The nature, severity and intentionality of the offense(s) including but not limited to:
 - 1) The statutory elements of the offense (rather than the individual's account of the facts of the offense);
 - 2) The individual's age at the time of the offense(s);
 - 3) Number and type of offenses (felony, misdemeanor, traffic, other);
 - 4) Time elapsed since the last offense;
 - 5) The individual's probation or parole status;
 - 6) Whether the circumstances arose out of an employment situation; and
 - 7) Whether there is a pattern of offenses.

- b. The Position. The duties, responsibilities and circumstances of the position applied for, including but not limited to:
- 1) The nature and scope of the position, including key access to residential facilities, key access to campus facilities, access to cash and access to vulnerable populations, including minor children;
 - 2) The nature and scope of the position's student, public or other interpersonal contact;
 - 3) The nature and scope of the position's autonomy and discretionary authority;
 - 4) The amount and type of supervision received in the position or provided to subordinate staff;
 - 5) The sensitive nature of the data or records maintained or to which the position has access;
 - 6) The opportunity presented for the commission of additional offenses; and
 - 7) The extent to which acceptable job performance requires the trust and confident of the employer, the University or the public.

Using these and other appropriate factors, the Provost or the Vice Chancellor for Administration & Finance (or their respective designees) in consultation with Human Resources, legal counsel and Affirmative Action will make the final determination on whether to appoint or reject the candidate on the basis of a criminal background check. Human Resources will be responsible for documenting the basis for the decision to appoint or to refuse to appoint a candidate based on the criminal background check review.

4.8) Self-Disclosure of Arrests, Charges, or Convictions

UW-Superior requests that employees who hold positions of trust with access to vulnerable populations, as defined in paragraph 4.1(a) of this policy, to report any criminal arrests, charges, or convictions (excluding misdemeanor traffic offenses punishable only by fine) to Human Resources, within twenty-four (24) hours or at the earliest possible opportunity. Failure to make the required report may constitute a violation and may result in disciplinary action, up to and including dismissal. The same procedures must be implemented for volunteers who hold a position of trust with access to vulnerable populations.

4.9) Statutorily Mandated Background Checks

Notwithstanding anything in this policy, UW-Superior shall continue to perform criminal background checks for certain, specified positions in the form and manner required by state or federal law. Laws mandating criminal background checks for certain positions include: the Wisconsin Caregiver law (covering prospective caregivers for vulnerable populations such as minors, as well as those licensed by the state to provide direct health care services and treatment to clients); the Wisconsin Fiduciary law (covering positions that involved accounting, auditing, financial management, accounts receivable, accounts payable, procurement, retail operations, tax and fee collections, payroll, and handling of cash and checks); and the federal Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agricultural Protection Act of 2002 (covering employees who handle and work with hazardous agents or materials in campus labs, buildings or storage facilities.)

4.10) Other Criminal Background Checks

Nothing in this policy shall be construed to prevent UW-Superior with a reasonable basis from obtaining, at any time, criminal background check information on any current employee or volunteer.

4.11) Oversight, Roles and Responsibilities

UW-Superior will submit its criminal background check policy to the UW System Office of Human Resources for review and approval to ensure consistency of practice in the UW System. Any subsequent change to UW-Superior's policy will be also submitted to the UW System Office of Human Resources.

4.12) Criminal Background Check Confidentiality

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. Failure in maintaining confidentiality may result in a violation of a work rule which may lead to discipline up to and including termination.

V. Policy Procedures

5.1) Vacancy Announcements

UW-Superior requires that all vacancy announcements (including ads) contain the following statement:

“Employment will require a criminal background check.”

The following language is optional and may be added to vacancy announcements and ads:

“A pending criminal charge or conviction will not necessarily disqualify an applicant. In compliance with the Wisconsin Fair Employment Act, the University does not discriminate on the basis of arrest or conviction record.”

5.2) Consent Form

Prior to conducting a criminal background check, the University will have the candidate sign a consent form. The form will specifically ask a candidate to self-disclose if he or she has ever been convicted of a crime or is currently facing criminal charges. Individuals who decline to sign the consent form will no longer be considered a candidate for the vacancy. A candidate must 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.

5.3) Conducting Criminal Background Checks

Criminal background checks will be managed by the Human Resources Office to include checks of records in all jurisdictions deemed prudent. All costs associated with conducting the background check will be incurred by the employment department.

5.4) Appointment Letters

If an appointment is offered contingent on the successful completion of a criminal background check or an employee is permitted upon approval of the Director of Human Resources or designee to commence employment pending completion of a check, the appointment letter must state the appointment will be withdrawn or terminated if the

individual's criminal background check results are unacceptable. The following statement may be used in the appointment letter.

“This appointment is conditional pending the results of a criminal background check. The appointment will be withdrawn or terminated if the results are unacceptable.”

5.5) Candidate Notification of Negative Results

If an applicant is not selected based on the criminal background check results, the results will be provided and the applicant 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. The University and the vendor will need to ensure compliance with the FCRA.

5.6) Record Keeping

Records gathered as a result of a criminal background check will be kept by 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 records. These records should include:

- Consent Form
- Information collected from the check
- Analysis and decision whether criminal activity (if any) was substantially related to position
- Correspondence related to criminal background check.

The records will be securely maintained for a period of seven years after the position has been filled, and may be accessed only on a need-to-know basis or as required by applicable law.

Any questions related to this policy, including interpretations and resource locations, should be directed to the Human Resources Office.

VI. Authority: Regent Policy #20-19, Resolution 9276, Adopted 12/08/2006.

VII. Attachments

- 7.1) Confidentiality Agreement
- 7.2) Job Application supplement for Finalists
- 7.3) Letter of Notice to Finalists

Approved by Chancellor Dr. Renee M. Wachter, March, 2013

**CONFIDENTIALITY AGREEMENT
(FOR EMPLOYEES WITH ACCESS TO INFORMATION ON CRIMINAL
BACKGROUND CHECKS)**

Name: _____

Classification/Job Title: _____

UW Institution: _____

Department: _____

I understand that in the course of conducting a criminal background check, I may have access to information including, but not limited to, the results obtained from the criminal background check.

I understand that the information listed above, as well as other information to which I have access, is special or confidential information that could either improve or injure the prospects or chances of persons in the recruitment process. I agree to keep this information confidential and not to copy the materials, discuss them with anyone not specifically authorized by the Human Resources Specialist, Manager, or Representative, or allow any unauthorized person access to them. Failure to keep the information confidential may constitute insubordination and/or may result in a violation of a work rule both of which could lead to discipline up to and including termination.

By signing below, I acknowledge that failure to adhere to the requirements set forth in this statement would be a violation both to the public trust and as a condition of my continued employment with the State of Wisconsin.

Signature

Date

LETTER OF NOTICE TO FINALISTS

Name
Address
City, State

RE: Criminal History Background Check

Dear Candidate:

I am pleased to inform you that you are a final candidate for the position of (XX) in the (School/College/Division/Department) of UW-Superior. The University conducts criminal history background checks on final candidates. 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 Applicant Supplement to the University's Human Resources Office. Your response should be faxed (715-394-3171) or hand delivered to Laura Dahl in Human Resources no later than (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 may 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 call Laura Dahl at (715) 394-8041.

Sincerely,

Peggy Fecker
Director of Human Resources

**CRIMINAL BACKGROUND CHECK SUPPLEMENT
CONVICTIONS AND/OR PENDING CRIMINAL CHARGES**

CONFIDENTIAL

NOTE TO FINALISTS, EMPLOYEES AND VOLUNTEERS: The University conducts criminal background checks for all new hires. The University also conducts criminal background check for university volunteers holding a position of trust with access to vulnerable populations. Further, both employees and volunteers holding a position of trust with access to vulnerable populations will be subject to a criminal background check every four years. A criminal conviction or pending criminal charge may be a factor in the placement decision.

The information requested below is required to conduct a criminal history background check. Discrimination on the basis of age, gender, race or any other protected class status under federal or state law is prohibited by University policy.

A record of conviction and/or pending criminal charges is not an absolute bar to employment. Such information will be considered only if there is a substantial relationship between the circumstances of the conviction and/or pending charge and the position being applied for. Your completion of this form is part of your application process. You must fill out the form accurately and completely, disclosing all convictions and/or pending criminal charges for any felony or misdemeanor. Applicants who fail to timely complete and return the form will not be further considered 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.

Please print (for identification purposes only):

Name: _____				
	First	Middle	Last	
Other Names You Have Used:				

Current Address:				

	Street	City	State	Zip
Previous Addresses (most recent*)				

	Street	City	State	Zip

	Street	City	State	Zip
(*Only if you have not lived at your current address for seven years).				
Date of Birth: _____ Social Security Number _____				
Month/Day/Year				
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: _____

3. Do you have any criminal charges pending against you? Yes _____ No _____

If yes, please indicate the nature of the charges: _____

Name and Location of the Court of Jurisdiction: _____

Additional Information: _____

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