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## PRE-EMPLOYMENT BACKGROUND CHECKS POLICY

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**Category:** Human Resources

**Responsible Office:** Human Resources

**Responsible Executive:** Vice President for Finance and Administration

**Date Established:** 4/1/09

**Date Last Updated:** 02/27/18

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### Summary

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This policy requires verification of credentials, criminal history, and other information related to employment decisions and is in effect when a background check is conducted.

Background checks are conducted to mitigate risk and support the university's fiduciary responsibility to protect the security, safety, and health of its community. Background checks are required for positions that:

- Are responsible for the health, safety and security of the university community and its students
  - Have access to restricted or private data, or controlled substances
  - Have broad access to facilities
  - Have financial and business officer responsibilities
  - Have roles as senior administrators
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### Policy

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#### POLICY STATEMENT

The University at Buffalo (UB, university) recognizes that its research, education, and service mission must be supported by qualified individuals as well as a safe and secure environment. To accomplish this objective, the university requires certain credential, criminal, and other background information to be verified for appointees, regardless of funding source, if given a conditional offer of employment.

The following background checks, appropriate to the position, must be completed and will be initiated upon acceptance of the conditional offer of employment:

- identity verification
- employment verification
- criminal history check
- sex and violent offender registry check
- educational verification
- license and professional credential verification

If the university has performed any of these verifications on an individual within the past year, a new verification of that specific category is not required. The results of the previously performed verification will be considered in any pending employment decision.

Foreign nationals with a visa less than two years old are exempt from all background checks except for license verification. For foreign nationals with a visa more than two years old, a full background check appropriate to the position will be conducted for the period the applicant was a United States resident.

Additional background checks for specific positions, safety, security, or legal reasons may be conducted.

All related information is treated and protected as confidential information.

### **Fees**

The department where the employee will reside is responsible for all fees related to conducting background checks.

### **Conditional Offer of Employment**

All conditional offers of employment, oral and written, must include the following statement:

This offer is contingent on the university's verification of credentials and any other information required by state law and University at Buffalo policies, including the completion of a criminal history check. You will be required to provide the third-party vendor electronic consent for background checks and your identifying information, including date of birth and social security number.

### **Background Check Results**

#### *No Convictions or Discrepancies*

If the background check indicates there are no convictions or discrepancies, the initiator of the request informs the department hiring manager that the employment offer is confirmed.

#### *Convictions or Discrepancies*

If the criminal history and other required checks indicate there are convictions or discrepancies, the requestor, through the third-party vendor, provides the following information to the applicant:

- Copy of the background check report
- Fair Credit Reporting Act (FCRA) notice permitting review and dispute rights
- Notices required by New York State law

If the criminal history check reveals convictions which the applicant disclosed in the application, the requestor reviews the report and any additional information the applicant

provides and evaluates each conviction before the conditional offer of employment is confirmed or withdrawn. The existence of a conviction does not automatically disqualify an individual from employment. Relevant considerations may include, but are not limited to, the nature and number of convictions, their dates, and the relationship a conviction has to the duties and responsibilities of the position.

If unreported convictions are revealed in the background check, or other falsifications are detected, the conditional offer of employment will be withdrawn unless the individual shows that the report is in error. If the individual asserts that the report is in error, the university will provide a reasonable period of time for the applicant to submit proof and/or dispute the third-party vendor's report through applicable procedures.

If the results of the background check influence a decision to withdraw a conditional offer of employment, the requestor will inform the hiring department, and direct the third-party vendor to inform the individual of such on UB's behalf. All applicable required notices in compliance with FCRA and New York State law will be provided to the candidate. The candidate may appeal any decision to withdraw a conditional offer of employment resulting from a background check.

The decision to withdraw a conditional offer of employment for an individual with convictions, an unreported conviction, or other falsification is solely at the discretion of the University at Buffalo.

Violations of university policies, including providing false or misleading information used for any of the above background checks, will be handled in accordance with applicable policies and procedures, which may include withdrawal of an employment offer and/or disciplinary actions up to and including termination from the university.

## **BACKGROUND**

A formal process of pre-employment verifications strengthens university efforts to mitigate risk by:

- Supporting fiduciary responsibility
- Promoting a safe learning and working environment
- Protecting university assets, including property, and restricted or private data
- Assisting units with hiring decisions
- Complying with applicable laws

## **APPLICABILITY**

This policy applies to all appointees who have been given a conditional offer of employment. Background checks are required for positions that:

- Are responsible for the health, safety, and security of the university community and its students
- Have access to restricted or private data, or controlled substances
- Have broad access to facilities
- Have financial and business officer responsibilities
- Have roles as senior administrators

## **DEFINITIONS**

### **Appointee**

An individual appointed to a position, regardless of the funding source. This includes both full and part-time positions.

### **Criminal History Check**

Determination of whether an applicant has a criminal history. A criminal history does not serve as an automatic bar to employment.

### **Educational Verification**

Confirmation that the selected applicant possesses all educational credentials listed on the application, resume, cover letter, or otherwise cited by the candidate that qualify the individual for the position.

### **Employment Verification**

Confirmation that the selected applicant actually worked in the positions listed on the application, resume, cover letter, or otherwise cited by the candidate that qualify the

individual for the position. This includes verification of dates of employment and previous positions held.

**Fair Credit Reporting Act (FCRA)**

Federal requirement governing the process by which consumer reports may be collected and utilized, including for purposes of employment.

**Foreign National**

Person present in a country who does not currently have the right to permanent residency in that country.

**Identity Verification**

Confirmation that an individual is who they claim to be.

**License and Professional Credential Verification**

Confirmation that the selected applicant possesses all the licenses listed on the application, resume, cover letter, or otherwise cited by the candidate, including verification of the disposition of such licenses. This verification includes motor vehicle driver licenses or professional credentials required for the associated position.

**Sex and Violent Offender Registry Check**

Verification that the selected applicant does not have undisclosed convictions of certain sex and violent crimes.

**RESPONSIBILITY****Human Resources (HR)**

- Authorize the third-party vendor to complete a background check on a candidate when notification is received.
- Determine the components of the background check that must be performed applicable to the position.
- Receive results of the various background checks, evaluate the results, and take appropriate action.
- Maintain records indicating the item verified, the date(s) of the verification, and the status of the verification.
  - Retain information in a record for the associated applicant; limit access to those with a legitimate business need.
- Coordinate the third-party vendor invoices and payments for performing background checks.
- Monitor the hiring decisions made in cases where the background checks reveal convictions/ discrepancies; provide assistance as appropriate.

**Hiring Department**

- Extend a conditional offer of employment to the selected applicant only after an *Approval to Hire*, where applicable, has been received through UB Jobs or when an appointment has been approved by HR.
- Ensure that the conditional offer of employment includes the appropriate statements regarding credential verification and background check consent.

- Notify HR that the candidate has accepted the conditional offer of employment.
- Ensure that background checks are complete, as confirmed by HR, prior to confirming the offer of employment to the selected candidate.
- Process appropriate paperwork for initiating payment to the vendor for fees associated with the background check.

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**Contact Information**

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Contact	Phone	Email
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**Related Information**

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**University Links:**

[Child Protection Policy](#)

[Conducting a Background Check](#)

[Discrimination and Harassment Policy](#)

[Protection of University Data Policy](#)

**Related Links:**

Fair Credit Reporting Act

<http://www.ftc.gov/os/statutes/031224fcra.pdf>

New York State Correction Law, Article 23-A, Licensure and Employment of Persons Previously Convicted to One or More Criminal Offenses

<http://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf>

New York State Human Rights Law

<https://dhr.ny.gov/law>

Research Foundation Pre-employment Background Check

[http://www.rfsuny.org/media/RFSUNY/Procedures/per\\_pre-employment-background-check\\_guid.htm](http://www.rfsuny.org/media/RFSUNY/Procedures/per_pre-employment-background-check_guid.htm)

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## History

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- February 2018      Full review. Updates include:
- Changing the title of the policy from *Pre-Employment Background Screening* to *Pre-Employment Background Checks*
  - Eliminating the requirement for a statement relating to a medical examination to be included in the conditional offer of employment; the medical examination language requirement was discontinued 12/19/2013
  - Previously, this policy was in the pilot stage and applied to selected areas: Business Services and Chief Information Office professional staff; Athletics coaches; and all University Facilities and University Residence Hall staff

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## Presidential Approval

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Satish K. Tripathi, President

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Date