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## POLICY ON BACKGROUND CHECKS

Approved by the UNCG Board of Trustees, December 6, 2007

Effective: January 1, 2008

Revisions approved by the Chancellor on December 2, 2013, effective January 15, 2014

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### Purpose

The UNCG community is committed to providing a safe and secure environment for its students, faculty, staff, and visitors, and to protecting its funds, property, and other assets. Offers of employment and, under certain circumstances, offers of volunteer opportunities, will be contingent upon checks of background information that will remain confidential to the extent provided by law, and continued employment with UNCG may depend upon timely and accurate reporting of post-hire felony criminal convictions.

### Scope

#### Who is covered?

- a. Volunteer candidates who will, if selected, work with sensitive populations and/or will have unsupervised access to cash, checks, or other forms of liquid assets
- b. Candidates selected for vacant job positions who are scheduled to assume their duties on or after January 1, 2008
- c. Internal/current employees seeking promotional opportunities or otherwise changing positions where there is a change in position that involves childcare, or other risk factors, including contact with sensitive populations, and changes in positions where the individual is required to handle sensitive information, financial assets, or approve financial transactions
- d. Internal/current employees who change jobs but have not had a credit or DMV check that is specific to the newly assumed position
- e. Applicants for Security Officer and Law Enforcement Officer positions, for whom the UNCG Police department will conduct their own criminal conviction investigation, which will include a fingerprint-based criminal history report (Human Resources will use this documentation as the criminal background check or record.)
- f. Full-time, part-time, time-limited, probationary, and temporary employees
- g. Trainees
- h. Faculty (regular and special), EHRA non-faculty, SHRA, post-doctoral and term appointments
- i. University employees who end their employment and then return to employment, regardless of the duration of the break in service
- j. Academic Affairs routinely separated employees
- k. Undergraduate and graduate students, who, in their job duties, as determined by the supervisor of the hiring unit in consultation with Human Resources, are required to handle sensitive information, financial transactions, or work with child care, or related activities, including contact with sensitive populations

#### Who is not covered?

- a. Undergraduate and graduate students whose work is incidental to their primary role as a student (but see [k] above)
- b. Undergraduate and graduate students whose background verification is assessed through the student admissions process<sup>2</sup>

# Policy

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## Definitions

*Academic Affairs routinely separated employees:* Individuals, such as part-time lecturers, who are employed and separated on a recurring basis as a routine part of instructional or other business operations in Academic Affairs.

*Criminal background check:* Consists of a search for a job candidate's or University volunteer candidate's criminal conviction and sexual offender status. The criminal background check is performed by an external vendor contracted by the University and covers the past seven years.

*Credit check:* Consists of a search for a job candidate's financial information, which may include debt, late payments, and defaulted loans.<sup>3</sup>

*DMV check:* Consists of a search for automobile accidents in which a job candidate was involved or for a job candidate's traffic convictions.

*Sensitive information :* Includes employee or student social security numbers, birthdates, personal contact information, health records<sup>4</sup> , passwords, non-salary financial information (such as expense reimbursements, or retirement account information), student records<sup>5</sup> , and personnel information.<sup>6</sup>

*Sensitive populations:* Individuals under 18 years of age, patients receiving care in any clinical setting, and other individuals entitled to enhanced supervision or protection based on University practice or State or Federal law

## Criminal background checks

All job candidates selected for vacant positions must have a criminal background check. A criminal background check is also required for internal/current employees changing jobs at the University due to a promotion, lateral transfer, reassignment, or demotion if the change in position involves childcare, or other risk factors, including contact with sensitive populations, or if the new position requires the internal/current employee to handle sensitive information, financial assets, or approve financial transactions.

University employees who end their employment and then return to employment with the University must always have a new criminal background check performed, regardless of the duration of the break in service. However, Academic Affairs routinely separated employees are not required to have a new criminal background check unless they have been separated from the University for more than two years. When such individuals have a separation of less than two years, as a precondition of contract renewal or reemployment, they will sign a [statement \(.docx\)](#), provided by the Office of the Provost, that they have not received a felony conviction or sexual offender status since their last criminal background check with UNCG and will also sign a statement acknowledging that they have read and understand this policy.

All candidates selected for volunteer opportunities and who will work with sensitive populations must have a criminal background check and may not commence volunteering prior to the completion of a satisfactory criminal background check. Supervisors, department heads, program leaders, or others recruiting a volunteer candidate who will, if selected, work with sensitive populations and/or will have unsupervised access to cash, checks, or other forms of liquid assets must notify Human Resources so that a criminal background check can be properly conducted. The volunteer's sponsoring department or unit is responsible for the cost of the volunteer candidate's criminal background check.<sup>7</sup>

## Credit checks and DMV checks for job candidates and current/internal employees

For job candidates for positions involving the handling of financial assets or approving financial transactions on behalf of the University, a credit history check may also be required, and applicants will be notified in advance if they will undergo a credit check.<sup>8</sup> DMV checks will be conducted on job candidates for positions that include a valid driver's license requirement, have driving as a required part of

the employee's regularly assigned job duties, and/or have operation of a State vehicle or motorized equipment as part of the position description.

A credit check or DMV check could also be required of a current/internal employee if the individual has not had a check for information that is specific to the newly assumed position. For example, if a new position includes a valid driver's license requirement, a DMV check would be conducted on the current/internal employee who is a candidate for the position. Generally, a credit or DMV check is not required in the case of a current/internal employee who accepts or is reappointed or promoted to a position that does not require a check for credit or driving information (such as a staff member's reappointment to the same position or a faculty member's promotion from one rank to another).

### **Offers of employment**

A provisional offer of employment may be extended to the selected candidate on the condition of a satisfactory criminal background check received by Human Resources. An individual may not start work prior to the completion of a satisfactory criminal background check and written notification by Human Resources that there are no disqualifying circumstances that would bar University employment unless approved in advance by the Associate Vice Chancellor for Human Resources (for SHRA and EHRA non-faculty positions) and the Vice Provost (for faculty positions). This option will only be permitted in exceptional circumstances where an urgent University business need has been demonstrated and when the position does not deal with sensitive populations.

### **Results of criminal background checks, DMV checks, and credit checks**

A previous conviction may not disqualify an applicant from consideration for employment (or volunteering) with the University. Depending on a combination of any of the following factors, which will be weighed by the supervisor of the hiring unit (or the unit for which the individual would volunteer) in cooperation with Human Resources (for SHRA, EHRA non-faculty, University volunteers, post-doctoral and term appointments, and students) or in cooperation with Faculty Personnel Services (for faculty), the candidate may still be eligible for employment or volunteering:

- the relevance of the criminal conduct to the job duties of the position or to volunteer activities
- the role/nature of the job to be filled or volunteer activities to be conducted (duties, contact with others)
- the relevance between the crime, its seriousness, and future legal implications
- the date of the crime and age of the person when the crime was committed
- information the candidate supplied about the crime's surrounding circumstances
- the sentence or sanction for the crime and compliance with the sanctions
- post-crime activities, work record, references
- rehabilitation record
- subsequent criminal activity
- professional and/or legal guidance regarding the criminal behavior and employment or volunteering risks
- the truthfulness of the candidate in disclosing the conviction
- other related information

A discovery of falsification, including misrepresentation or failure to disclose relevant information as part of the recruitment process, will disqualify a candidate from employment or volunteering and may subject a current/internal employee to dismissal.<sup>9</sup>

Negative information regarding DMV checks or credit checks will be reviewed for relevancy to the position the applicant or internal/current employee will be occupying (or to the activities in which the volunteer would be engaged) before a final decision is made regarding eligibility for hire, promotion, or transfer. A description of the procedures to be followed can be found in "[Recruitment - Background Check Procedures](#)."

## Confidentiality

Criminal background check, credit check, or DMV check documentation will be accurate and complete. Information is confidential, and all parties having access to this information will maintain it as confidential.

## Reporting

Protection of the University community is an ongoing effort, and an initial criminal background check conducted at the time an employee is hired may be insufficient to shield the University community from an employee's future criminal activities. To mitigate this risk, University employees are required to report any felony conviction(s) and/or registration as a convicted sex offender that occur(s) on or after December 2, 2013.<sup>10</sup>

Convictions for routine traffic-related infractions (e.g., speeding, unsafe movement, improper equipment) are not required to be reported under this policy unless driving is a required part of the employee's regularly assigned job duties. In these circumstances, the employee must report any traffic-related conviction.

Employees are required to report criminal convictions as outlined in this policy within five business days of the conviction or other covered criminal disposition or at the first possible opportunity if the employee is incarcerated.

SHRA and EHRA non-faculty employees are required to report this information to Human Resources or, at the employee's option, to his/her supervisor or department head. Faculty members are required to report this information to Faculty Personnel Services or, at the employee's option, to his/her supervisor or department head. Supervisors or department heads who have had such matters reported directly to them, either from the employee or through any other source, must immediately convey this information to the appropriate personnel office (Human Resources for SHRA<sup>11</sup> or EHRA non-faculty; Faculty Personnel Services for faculty). Once information regarding a criminal conviction is reported to Human Resources or Faculty Personnel Services, the following process will ensue (see related footnote regarding who makes determinations in this process<sup>12</sup>):

1. It will be determined whether a new criminal background check should be performed.
2. If yes, an authorized criminal background report will be reviewed to determine whether the employee should continue employment with UNCG.
3. If the employee's criminal background report reveals information deemed relevant to continued employment with UNCG, the following factors will be taken into consideration to determine whether the employee should continue employment with UNCG:
  - The relevance of the conviction(s) to the individual's duties and responsibilities
  - The date(s) of any conviction(s), and
  - The candidate's record since the date(s) of the conviction(s).

Willful failure to report a criminal conviction under this policy or to cooperate with University authorities regarding a reportable matter under this policy may subject the employee to disciplinary action, up to and including termination of University employment or affiliation.

## Enforcement

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This policy will be carried out by Human Resources, and for faculty, except as otherwise noted, it will be carried out by Human Resources pursuant to procedures established by the Office of the Provost.

## Review

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This policy will be reviewed periodically and, if changes are needed, they will be brought to the appropriate approval authority(ies).<sup>13</sup>

<sup>1</sup> See University Policy Manual, Volunteer Policy and Procedures (<http://policy.uncg.edu/volunteer/>) for more on criminal background checks for volunteers and for definition of "unsupervised access." Those receiving adjunct faculty appointments are generally uncompensated and are "volunteers" as defined by the Volunteer Policy and Procedures and would be subject to a background check by that policy in the event that they deal with "sensitive populations" or have "unsupervised access to cash, checks or other forms of liquid assets."

<sup>2</sup> See Regulation on Student Applicant Background Checks, UNC Policy Manual 700.5.1[R]: <http://www.northcarolina.edu/policy/index.php?pg=vs&id=s459>

<sup>3</sup> See "A summary of Your Rights Under the Fair Credit Reporting Act": <http://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>

<sup>4</sup> Under the provisions of Chapter 130A of the North Carolina General Statutes, certain reports must be maintained confidential. Article 6 of this Chapter prohibits the disclosure of all information records and reports of communicable diseases as defined by the State Commission for Health Services. Thus, where UNCG's student health service or campus physician has information concerning these conditions, they must hold this data securely. In addition UNCG is subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the handling of records under HIPAA are governed by the UNCG HIPAA Compliance policy: <http://policy.uncg.edu/hipaa/>

<sup>5</sup> The Federal Educational Rights and Privacy Act (FERPA) requires that educational institutions protect the privacy of all material that personally identifies a student, regardless of the form of the data or its location. More specific information may be found here: <http://www2.ed.gov/policy/gen/req/ferpa/index.html>

<sup>6</sup> A state employee's personnel file is generally considered to be "sensitive". North Carolina General Statutes § 126-22 ([http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_126/GS\\_126-22.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_126/GS_126-22.html)) defines these records as ". . . information [which] relates to the individual's application, selection or non-selection, promotions, demotions, transfers, leave, salary, suspension, performance evaluation forms, disciplinary actions, and determination of employment, wherever located and in whatever form." Thus, records or documents which refer to these matters generally are not discloseable and must be shielded.

<sup>7</sup> See University Policy Manual, Volunteer Policy and Procedures: <http://policy.uncg.edu/volunteer/>

<sup>8</sup> See "A summary of Your Rights Under the Fair Credit Reporting Act": <http://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>

<sup>9</sup> See North Carolina General Statutes § 126-30, Fraudulent disclosure and willful nondisclosure on application for state employment; penalties: [http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter\\_126/gs\\_126-30.html](http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_126/gs_126-30.html); see also State Human Resources Manual, Workforce Planning, Recruitment and Selection, Applicant Information (<https://ncoshr.s3.amazonaws.com/s3fs-public/documents/files/Selection.pdf>), and The UNC Policy Manual, 300.2.3 [R], Regulations Governing Fraudulent Job Applications <http://www.northcarolina.edu/apps/policy/index.php?pg=vs&id=s278>

<sup>10</sup> On December 2, 2013, the Reporting section was added as an approved, immediately effective revision to the January 1, 2008 Policy on Background Checks.

<sup>11</sup> For SHRA disciplinary actions, see Policy Manual for SHRA and EHRA-Non-faculty Employees, Section 7 SHRA - Employee Relations, Disciplinary Process and Grievance/Appeals <http://web.uncg.edu/hrs/PolicyManuals/StaffManual/Section7/Discipline/>

<sup>12</sup> Once information of a conviction is relayed to Human Resources or Faculty Personnel Services, the individuals involved in the subsequent process (1 through 3) will depend upon whether the employee involved is (1) SHRA or EHRA non-faculty or (2) faculty.

1. For SHRA or EHRA non-faculty employee: The employee's supervisor or department head, will work with the Associate Vice Chancellor for Human Resources and General Counsel, and all three together will make the necessary determinations to carry out steps 1 through 3.
2. For faculty: The employee's supervisor or department head will work with the Vice Provost and General Counsel, and all three will together will make the necessary determinations to carry out steps 1 through 3.

<sup>13</sup> See University Policy Manual, Policy on Policies: [http://policy.uncg.edu/policy\\_on\\_policies/](http://policy.uncg.edu/policy_on_policies/)