



UNIVERSITY OF CENTRAL FLORIDA

Office of the President

SUBJECT: Background Checks	Effective Date: 3/18/2019	Policy Number: 3-011	
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	Responsible Authority: Associate Vice President and Chief Human Resources Officer		

APPLICABILITY/ACCOUNTABILITY

This policy is applicable to all University of Central Florida (UCF) and UCF direct support organization (DSO) prospective job applicants, temporary staff, current employees, and volunteers working with minors or working in positions identified by duties as requiring a background check.

BACKGROUND INFORMATION

The foundation of UCF's recruitment philosophy is the belief that recruiting and hiring the most qualified individuals contributes to the overall strategic success of the university. Background checks serve as an important part of the selection process at UCF. The background check process supports the university's commitment to protecting the safety, security, and health of its students, faculty, staff, and visitors; and safeguards the interests of the university community. As part of its efforts to create a safe and secure work and learning environment, the university conducts criminal history background checks in accordance with all applicable federal and state laws as a condition of employment.

POLICY STATEMENT

The purpose of any criminal history background check is to determine whether criminal history represents a relevant concern to the university. The university reserves the right to conduct a background check for applicants, temporary staff, current employees, and

volunteers, *when applicable*, at any time in accordance with all federal and state laws and based on the nature of employment and/or assignment.

The policy sets forth the procedures for conducting a background check prior to commencement of work with the university. If, at any point during or after the hiring process, UCF Human Resources (Human Resources) determines that there is reasonable cause to believe that grounds exist for the denial or termination of employment of any applicant or employee as a result of a background check, Human Resources will notify the prospective or current employee that results from the completed background check reveal noncompliance with the standards. It shall be the responsibility of the affected applicant or employee to contest the disqualification.

The university reserves the right to decline an applicant or volunteer; or to discipline, revoke the privileges or access of, and/or terminate any current employee or other person to whom this policy applies who: provided false, misleading, erroneous, or deceptive information on an application, résumé, or during an interview; or omitted material information during the hiring process. Any applicant who refuses to submit to a background check will be disqualified from further consideration for the position to which they have applied.

This policy complies with the provisions of the Fair Credit Reporting Act (FCRA) and any other applicable federal or state law governing the use of background checks.

DEFINITIONS

Contractor. An independent entity retained to furnish personnel and/or services based on contractual terms. A contractor may subcontract work out to another third party or person with appropriate expertise or credentials. A contractor or sub-contractor is not a direct employee of the university.

Executive Search Firm. A specialized external recruitment service retained by UCF to assist in the recruitment process.

Fair Credit Reporting Act (FCRA). A federal law enacted to promote the accuracy, fairness, and privacy of consumer information contained in the files of consumer reporting agencies. In compliance with FCRA, the university will do the following:

- Advise applicants, employees, or volunteers that information in their background check report will only be used for decisions related to their employment;
- Acquire written authorization from applicants or employees before any background check/credit bureau check is conducted; and
- In the event of any adverse employment action or decision, the applicant or employee will be furnished with a copy of the background check report relied upon to make any final hiring decision and a summary of their rights under FCRA and will be advised of their rights to dispute findings in the report.

In accordance with the FCRA, an applicant or employee has the right to obtain a copy of any background check report. An applicant or employee has the right to contest the accuracy and completeness of any information contained in any such report and obtain a prompt response to their inquiry before a final determination is made.

Minor. Any unmarried person under the age of 18 who has not been emancipated by order of the court, excluding minors who are enrolled, dually enrolled, or accepted for enrollment at the university, and minors who are employed by the university.

State of Florida Level I Background Check (Level 1). Consists of criminal history background check inclusive of a search of the following:

- National Sex Offenders Registry
- Statewide criminal history background check through the Florida Department of Law Enforcement (FDLE)
- Local criminal records check through local law enforcement agencies

State of Florida Level II Background Check (Level 2). Conducted in accordance with the State of Florida level 2 standards, including fingerprinting for statewide criminal history records checks through the FDLE and national criminal history records checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.

Temporary Staffing Agency. A third-party agency that provides short-term workers to UCF colleges and/or departments for temporary work assignments on a contract basis. A worker hired from a temporary staffing agency is an employee of the third-party agency.

UCF Standard Background Check. Consists of criminal history background check inclusive of a search of the following:

- National Sex Offenders Registry
- Statewide criminal history background check through the FDLE
- Local criminal records check through local law enforcement agencies
- Federal criminal database
- National criminal history records
- Social security records available through credit bureaus
- Driver's license records

Volunteer. An unpaid individual who freely offers services to the university without any expectation of receiving pay, compensation, or other benefits, including future employment with the university, to support the activities and mission of the university and/or gain experience in specific endeavors. A volunteer is an individual who does not displace a current university employee and who does not currently hold a position performing the services that are the same as those for which the individual is volunteering.

PROCEDURES

I. Types of Criminal History Background Checks

All final candidates for employment with UCF for positions classified as Faculty, Adjunct Faculty, Administrative and Professional (A&P), University Support Personnel Services (USPS), Post-Doctoral Associates, Medical Residents, Graduate Assistants, and non-student Other Personnel Services (OPS) are required to undergo a UCF Standard Background Check.

Undergraduate students and volunteers are generally exempt from the background check requirement, unless the position is identified by duties as requiring a background check.

A Level 2 background check is required for positions when mandated under applicable federal or state law or when designated based on university policy, duties of the position, or in compliance with grants and/or contractual requirements.

II. Applicability

A. Prospective Employees

This policy outlines a process for ensuring that a criminal history background check is required as a condition of employment for individuals (paid or unpaid) who engage with the UCF community in any work capacity.

1. Prospective employees or final candidates for positions identified as requiring a background check by position or duty.
2. International employees are subject to a background check. Hiring departments should consult with UCF Global for compliance with the immigration laws and regulations when hiring international employees.
3. Employees hired via an executive search firm are required to undergo the appropriate background check conducted through Human Resources as a condition of employment.
4. Temporary staff hired via temporary employment agencies are required to have a background check performed by the temporary employment agency prior to the commencement of assignment at UCF. UCF will accept the results of the background check provided the criteria under which it is executed is pursuant to State of Florida Level 1 background check standards. The agency must provide the university hiring official with certification that the background check was performed and cleared by the agency prior to commencement of work for UCF.
5. Contractors hired to provide services to the UCF community are responsible for conducting background checks on all personnel and any agents and/or subcontractors that may be utilized prior to their commencement of work for the university. Certification that such personnel, agents, and subcontractors

have satisfactorily completed a background check equivalent to Level 1 background check standards must be furnished to the hiring department.

6. Depending on the nature of the position or duties required, hiring officials may require the temporary employment agency and/or contractors to provide evidence of additional levels of background checks performed pursuant to State of Florida Level 2 background check standards prior to commencement of work.

B. Current Employees

A criminal history background check will be conducted for current employees under the following conditions:

1. In the course of application for other positions posted with the university, if a valid background check is not on record with Human Resources.
2. At any point during university employment when there is a justifiable reason pursuant to university procedures, policies, and practices, and/or if there is a reasonable belief that the employee has a criminal incident on their record that has not been disclosed to Human Resources. Human Resources will exercise due diligence in making this determination.

Current employees are required to report any arrest and/or conviction which occurs during their employment with UCF to Human Resources within 48 hours of occurrence.

3. When an employee is assigned or reassigned into a position located in a safety-sensitive or research area, or to a position identified by duties or responsibility by the hiring department or university procedures, or pursuant to federal or state laws.

C. Volunteers

1. UCF's standard background check is strongly encouraged for all volunteer service. The hiring department and the university offices of University Compliance, Ethics, and Risk and Human Resources retain the discretion to require a criminal background check of any volunteer where circumstances and/or assignments may change and to remain in compliance with university policy and federal and state laws.

D. Interactions with Minors in accordance with UCF Policy 2-005 Youth Protection

1. Any employee or volunteer of the university, DSO, and/or third-party who participates in a program or activity sponsored, operated, or supported by the university where minors are under the care, custody, and control of university personnel, DSOs, or third parties is subject to undergo a Level 2 criminal history background check prior to engaging with minors.

2. The background check will be coordinated through Human Resources. All requests for background checks in this capacity must be received by HR no later than 30 days before the start of the program. Background checks are required to be completed once every five years to remain in compliance with state statutory requirements. If there is a break in service for longer than 90 days, the individual is required to be screened and cleared again prior to returning to work with minors. The university also reserves the right to conduct a screening any time after participation in a program has begun.

III. Background Check Process

A. Pre-Employment Background Checks

1. Hiring departments will conduct talent searches for open positions in compliance with all applicable federal and state laws and university regulations and policies. Upon selection of a final candidate, hiring departments will be required to notify Human Resources to initiate the background check process.
2. Human Resources will initiate the background check process by furnishing the selected candidate with instructions on its application authorizing the background check by the third-party vendor.
3. Human Resources will coordinate background checks through the third-party vendor contracted with UCF to process the background checks.
4. All expenses incurred for processing background checks will be charged directly to the respective hiring department.
5. Human Resources will review criminal history background checks prior to making an offer of employment. A selected candidate may not begin their employment with UCF without successful completion of the required level background check and clearance from Human Resources.

B. Completed Background Checks

1. Upon completion of a UCF standard background check, Human Resources is responsible for examining results and making a final determination as to clearing the candidate to begin employment.
2. Hiring departments are responsible for conducting Level 2 criminal history background checks for positions identified by duties or law as requiring one. The hiring department must furnish a certification of clearance to Human Resources prior to the selected candidate's start date.

In some circumstances, Human Resources may initiate the Level 2 background check with the appropriate agency. In these cases, HR will assume the responsibility for clearing the candidate to commence work.

3. The existence of criminal history does not automatically disqualify individuals from employment.
4. A prospective or current employee may be disqualified from consideration or terminated from employment if the results of the background check find that the person omitted or made false statements or misrepresentations during the application process. If the information returned from the background check is inconsistent with the information provided by an applicant, Human Resources will coordinate further investigation.
5. If the results of a background check reveal a misdemeanor, felony conviction, or adverse history, Human Resources will conduct an individualized assessment in consideration of the following factors to determine whether the conviction(s) support proceeding with or denying employment or volunteer status:
 - a) Nature and gravity of the offense(s);
 - b) Time period that has lapsed since the conviction;
 - c) Nature of the position being considered and direct applicability of the finding to the position;
 - d) Accuracy of the information provided on the employment application and/or in the recruitment process;
 - e) Recidivism history or reoccurrence and pattern of criminal behavior.
6. Human Resources will make the final determination on clearance for the candidate and authorize the hiring department to move forward with a formal offer and to schedule the candidate's employment start date.
7. In the event that Human Resources does not issue a clearance, the candidate will be notified by HR of the disposition pursuant to guidelines under the Fair Credit Reporting Act (FCRA). The hiring department will be advised to select an alternate candidate.
8. All completed criminal history background checks and/or copy of clearance shall be maintained by Human Resources.

IV. Exemptions

Exemptions from background checks are applicable under the following conditions unless the duties of the position require the background check under federal or state law or university policy:

A. Undergraduate OPS Student Positions

A background check is recommended but not required for UCF students hired into OPS undergraduate student positions, unless the position is identified by duties or responsibility as requiring the background check by the hiring department or university procedures, or pursuant to federal or state laws.

B. Volunteers

A background check is not required for volunteers if they are not assigned to a program or position where they are responsible for the care, custody, and control of minors or if the duties of their assignment do not require a background check.

C. Breaks in Service

1. For faculty appointments, a new background check is not required for returning faculty with a break of employment with UCF of less than one calendar year.
2. For graduate assistantship appointments, a new background check is not required for returning graduate students with a break of employment with UCF of less than one calendar year.
3. For non-faculty appointments, a new background check is not required for employees returning from a break in service of 30 days or less.
4. A new criminal background check will not be necessary for employees who are assigned to a new position if there is no break in service and if a previous valid background check is on record with Human Resources.

RELATED INFORMATION

Fair Credit Reporting Act 15 U.S.C. § 1681 et seq.

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap41-subchapIII.pdf>

Florida Statute Section 435.03

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0435/Sections/0435.03.html

Florida Statute Section 435.04

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0435/Sections/0435.04.html

RELATED DOCUMENTS

UCF Procurement Guidelines and Information for Procuring Temporary Labor
<https://procurement.ucf.edu/wp-content/uploads/sites/3/2018/01/Contract-Guidelines-and-Information-for-Procuring-Temporary-Labor-1.pdf>

UCF Policy 3-128 University Volunteers
<https://policies.ucf.edu/documents/3-128UniversityVolunteers.pdf>

UCF Policy 2-005 Youth Protection (*pending approval from policy committee*)
<http://policies.ucf.edu/>

CONTACTS

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INITIATING AUTHORITY Vice President for Administration and Finance

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