

PERSONNEL, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 5040 Criminal Background Checks; Employees

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BOARD POLICY

The Board of Trustees is committed to protecting the safety and welfare of its employees, students, and visitors and the security of its assets. In accordance with that commitment, criminal background checks will be conducted for new employees at the time of hire and periodically thereafter according to the terms of this policy. Prior to conducting the criminal background check, the applicant or employee must consent by completing the Disclosure and Authorization form designated by the Board. Credit checks will be conducted in addition to the criminal background check, on a limited basis, for new hires and current employees who work in positions involving significant financial responsibilities at the discretion of the College or System Office.

Pre-employment and continuing employment driving record checks will only be conducted in conjunction with the criminal background check, if driving is required for the position. Alcohol or drug related driving offenses within the last three (3) years will disqualify an applicant for positions that require driving and possession of a valid driver's license.

Note: An "investigative consumer report" is a detailed report that summarizes information about a person's character, reputation, lifestyle, and personal characteristics. Information for "investigative consumer reports" is often gathered through interviews with neighbors, friends and associates. **The Nebraska State College System shall not conduct "investigative consumer reports."** All references to background checks and reports in this policy specifically exclude such investigative consumer practices and reports.

This policy applies to all full-time and part-time employees. This policy also applies to temporary or student employees working in designated positions per this policy (*see "Temporary and Student Employees" section on page 2*).

The costs for the criminal background checks shall be borne by the employing College or System Office and not by the applicant or employee.

PROCEDURES

Pre-Employment

Offers of employment for all full-time and part-time employees, and for designated temporary or student employees will be conditional upon satisfactory results of a criminal background check. Credit checks are also required for positions involving significant financial responsibilities. A statement notifying applicants of this requirement will be included in the vacancy announcement and/or offer letter.

An applicant's refusal to consent to a criminal background or credit check or an unsatisfactory criminal background or credit check report shall result in withdrawal of the employment offer.

Applicants will be asked to self disclose law violations and juvenile court adjudications that resulted in probation, community service, jail sentence, or revocation/suspension of a driver's license during the selection process. Applicants are not obligated to disclose a sealed juvenile record of arrest, custody, complaint, disposition, diversion, adjudication, or sentence. The criminal history information provided by the applicant will not automatically disqualify them from employment but will be considered during the review process.

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Falsification or omission of any requested information during the selection process may result in disqualification from employment consideration for applicants, or if currently employed, termination of employment.

At the discretion of the employing College or System Office, employees may begin working before the background or credit check report has been received. Employees shall be informed that employment may end immediately if unsatisfactory results are received.

Upon request, the applicant may receive a copy of the background report once it is completed. Applicants who do not successfully pass the background check shall receive a copy of the report as required by law.

Continuing Employment

As a condition of continued employment, all full-time and part-time employees and designated temporary or student employees shall have criminal background checks completed at least once every five (5) years. In addition, employees working in positions with significant financial responsibilities will be required to consent to a credit check. An employee's refusal to consent to a criminal background or credit check or an unsatisfactory criminal background or credit check report may result in disciplinary action. Any disciplinary action shall comply with the provisions of applicable collective bargaining agreements and/or other Board Policies. Employees shall receive a copy of the background or credit check report prior to the imposition of any disciplinary action.

Each President shall determine the methodology in which the Human Resources Office will implement an ongoing background review process in coordination with the Vice Chancellor for Employee Relations.

All College employees are required to report to the Director of Human Resources if they are convicted of a criminal misdemeanor or felony offense or if they are subject to a restraining order no later than five (5) days after such conviction or order. Employees in the System Office are also required to report criminal misdemeanor or felony convictions or restraining orders to the Vice Chancellor for Employee Relations within five (5) days. Such convictions and/or orders will be considered in light of employee job responsibilities to determine if disciplinary action is warranted.

Temporary and Student Employees

The College shall conduct criminal background checks on temporary and student employees as designated below:

- 1) Any employee working in a College child care center, preschool program, "Kiddie College", residence hall, any type of athletic/academic camp or event involving minor children (under the age of nineteen (19) years);

In addition to a criminal background check, each College child care center or preschool program is required to conduct pre-employment background checks through the Nebraska Department of Health and Human Services (Nebraska Central Registry of Child Abuse and Neglect and the Adult Protective Services Central Registry).

- 2) Any employee with access to money or financial information of the College or System;
- 3) Any employee with access to campus master keys;
- 4) Any employee with access to confidential student/employee information;

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- 5) Activity center staff;
 - 6) Athletic staff positions including any level of coaching staff, managers, athletic trainers/assistants;
 - 7) Bus drivers;
 - 8) Graduate Assistants;
 - 9) Housing and residence life staff;

Criminal background checks are also required for anyone who has requested to reside with residence life staff in on-campus housing and who is 19 years of age or older (e.g. spouse, domestic partner, boyfriend/girlfriend, fiancée). A satisfactory criminal background check must be completed before they are allowed to reside in on-campus housing with the employee.

- 10) Information technology employees; and,
- 11) Security employees.

Note: **Work Study Programs.** College students working under federal work study programs at off-campus locations will not be subject to background checks pursuant to this Policy. Prior to making payroll arrangements to assign work study students to community employers (generally not-for-profit organizations or public schools), the College must enter into a signed agreement with the community employer to clarify that the College is not responsible for conducting a background check on the student to determine the suitability of such community placements.

Note: **International Students.** International student employees who have resided in the United States for less than six (6) months, will not be subject to a criminal background check at the time of initial hire given that there will be no history available. After a period of six (6) months, they will be subject to criminal background checks on an ongoing basis in accordance with this policy.

Results

If the background check report documents criminal misdemeanor or felony convictions, the Director of Human Resources will contact the President and consult with the Vice Chancellor for Employee Relations to discuss and determine what employment or disciplinary action, if any, will be taken. Concerns identified in credit reports will be addressed in the same manner. In the System Office, the Vice Chancellor for Employee Relations will contact the Chancellor to make such a determination.

A conviction is not an automatic disqualification to or termination from employment. Factors that will be taken into consideration include: the relevance of the offense/conviction to the position's job responsibilities; the amount of time that has elapsed since the last offense/conviction; the severity and number of offenses/convictions; extenuating circumstances; sex offender registry reporting classification; reparations, remediation or treatment, etc., that occurred after the conviction; terms of probation, parole or prison release; evidence of continuing treatment/counseling and rehabilitation information; evidence or opinions from law enforcement officers, parole officers, or mental health providers; and, other extenuating circumstances surrounding the offense/conviction.

The background check report will be considered without regard to race, color, national origin, gender, disability, religion or age.

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Upon request to the Human Resources Director, the employee shall receive a copy of the background check report once it is completed. For employees in the System Office, a copy of the report can be obtained by making such a request to the Vice Chancellor for Employee Relations. A copy of the report will be maintained in the Human Resources Office or System Office in the employee's personnel file. The Human Resources Director, President, Vice Chancellor for Employee Relations and/or Chancellor will only discuss the background check report on a need to know basis with supervisors/administrators. Supervisors will not receive a copy of the background check report unless otherwise directed by the President or Chancellor for disciplinary purposes.

Applicants and employees may dispute/appeal the results of the criminal background check by contacting the background check vendor.

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