

3.1.1a University of North Dakota Criminal History Background Check Policy and Procedures for Employment

I. Introduction

The University of North Dakota (UND) is committed to providing a safe and secure environment for all students, faculty, staff, and visitors; and to protecting its funds, property, and other assets. Well-informed hiring decisions contribute to this effort. Effective immediately, UND will conduct a criminal record background check (check) or a criminal history records check (check) on faculty, staff, and students hired for positions as indicated in this policy.

II. SBHE Policy/Procedure

The North Dakota State Board of Higher Education adopted SBHE Policy [602.3](#) requiring that each institution adopt a policy or procedure regarding checks on job applicants. Subsequently, the Chancellor adopted NDUS Procedure [602.3](#) authorizing positions for FBI checks. This policy and procedure is adopted to implement SBHE Policy [602.3](#) and NDUS Procedure [602.3](#) for job applicants at the University of North Dakota.

III. UND Policy/Procedures

A. Policy

1. As stated in SBHE Policy [602.3](#), a nationwide FBI check is required before beginning employment in the following positions, whether benefited or non-benefited:

- a. Police officer; and
- b. Security guard

A check of the sexual offender registry will also be conducted for these positions.

2. A check is required before beginning employment in the following positions, whether benefited or non-benefited:

- a. President and Vice Presidents;
- b. Residence hall and apartment manager or director and assistants;
- c. Custodians and other employees with master keys or other means of unsupervised access to residence halls or secure buildings or facilities;
- d. Child care employees and other employees who have unsupervised contact with children;
- e. Employees responsible for or with access to or in receipt of controlled substances and other drugs, explosives or potentially dangerous chemicals and other substances;
- f. Counselors and coaches; and
- g. Employees who are required to meet Payment Card Industry (PCI) Data Security Standards compliance.

The check for positions in Section 2 may be conducted through the Federal Bureau of Investigation (FBI), the North Dakota Bureau of Criminal Investigation (BCI), or through the use of a private licensed vendor specializing in background checks. A check of the sexual offender registry will also be conducted for these positions.

3. A check will be done on current employees as deemed necessary by the guidelines above.

4. A check may be done for other positions as determined by the department head at the time of recruitment with concurrence of the Office of Human Resources pursuant to NDUS Procedure [602.3](#).

5. Checks will be used only to evaluate candidates/employees for employment purposes and will not be used to discriminate on the basis of sex, race, color, religion, age, physical or mental disability, status with regard to marriage or public assistance, sexual orientation or participation in lawful activity off the employer's premises during nonworking hours.

B. Procedures

1. Position announcements for positions requiring a check will include this statement: "A criminal history check will be conducted on the finalist prior to beginning employment."

2. An offer to the top candidate may be made "contingent upon successfully completing a criminal history check." Employment will not begin until results of the check are received for positions requiring a check.

3. A "Criminal History Background Check Authorization Form" [available on the Office of Human Resources (HR) website] will be obtained as part of the interview process. Declining to complete the authorization form will remove the candidate from further consideration for the vacancy. The form will be processed for the final candidate. Authorization is made with the understanding that the University of North Dakota reserves the right to withdraw the offer of employment or terminate employment if the results of the check are unsatisfactory.

4. Upon receipt of the "Criminal History Background Check Authorization Form" and recommendation for selection for hire, HR will process the authorization for the check with the appropriate agency or private licensed vendor. Costs associated with conducting the check will be incurred by the hiring department.

5. The Director of Human Resources in consultation with the supervisor or the department's HR manager, UND General Counsel and UND Chief of Police will determine clearance for employment. Disqualification of a candidate will be based on 1) falsification of application or authorization information, or 2) an unsatisfactory check as it relates to the position.

a. A discovery of falsification, including misrepresentation or failure to disclose relevant information as part of the recruitment and application process, will disqualify a candidate from employment consideration. If the candidate is a current employee, falsification may also subject the individual to disciplinary action, up to and including termination.

b. A previous criminal conviction does not automatically disqualify an applicant from consideration for employment with UND. Candidates' eligibility will depend on a variety of factors, such as the nature, severity, and frequency of the offense or offenses; the time elapsed since conviction and the rehabilitation record; the actions and activities of the individual since the offense or offenses, including the individual's subsequent work history; the truthfulness and completeness of the candidate's disclosure of the conviction(s); whether a criminal conviction has a direct bearing on the individual's ability to fulfill job duties and responsibilities; the risk to the safety and welfare of employees, students, the general public, or UND property; and any other relevant information.

c. If a decision is tentatively made not to hire an applicant (or to withdraw an offer) based on the results of the check, the Office of Human Resources will provide the appropriate notifications to the applicant/employee. The applicant/employee will have three working days from the receipt of the notification to challenge the findings and an additional seven working days to successfully resolve it. If the findings are upheld, the Office of Human Resources will notify the individual of the non-selection. Although the federal Fair Credit Reporting Act (FCRA) requires notification procedures if an outside vendor is used to conduct the checks, this notification process will be followed even if an outside vendor is not used.

6. The Office of Human Resources will maintain check records in accordance with records retention guidelines and North Dakota open records law.

Approved 12-22-09, President Robert O. Kelley