



POLICY & PROCEDURE DOCUMENT

NUMBER: 4.2051

DIVISION: Finance and Administration

TITLE: Background Investigations

DATE: July 12, 2006

REVISED: May 1, 2009

Policy for: All Employees

Authorized by: Director, Human Resources

I. Purpose and Scope

As a condition of employment, Western Kentucky University requires a criminal records investigation applicable to all initial hires to determine suitability for employment. Applicants are required to disclose criminal history information as a part of the application process. No candidate for a position shall be employed until a satisfactory background investigation has been completed and authorization is provided to the hiring department/unit. Only "conditional" offers can be extended until a background investigation has been completed. In cases where employment may have been initiated prior to a criminal records check, the University reserves the right to determine the employee's suitability for continued employment.

For individuals who are proposed for rehire (i.e., part-time faculty, temporary employees, students) following an interrupted period of employment, a background check will be required if there is a break of 24 months or more from the end of the most recent period of employment. Individuals proposed for employment who are under the age of eighteen (18) will be exempt from the required background check.

II. Policy

A. Background Investigations Other than Criminal

1. The University may require a background investigation, other than criminal, for individuals who are candidates for positions such as senior management, auditors, accounting personnel, cashiers, information technology, drivers and others. Non-criminal background investigations may include: identity verification, education verification, moving violation record, credit report and professional licenses. The appropriateness of such investigations,

based on job-related factors, will be determined by the hiring department/unit in consultation with the Department of Human Resources and the Office of Academic Affairs, as applicable.

2. The following positions are generally subject to such investigations:

- a. Administrative positions reporting directly to the president or to a senior administrative officer having responsibilities for planning, leading, controlling and evaluating the activities of department/unit of the University
- b. Positions that have unsupervised contact with minors who are not enrolled as students of Western Kentucky University
- c. Positions having responsibilities related to health care services
- d. Positions with unrestricted access to residence halls
- e. Positions with authority to sign contracts on behalf of the University requiring the expenditure of funds
- f. Positions with oversight of institutional systems and/or access to information that poses a significant risk to the University as determined on a case by case basis
- g. Individuals who indicate a prior criminal felony offense or other criminal conviction that may indicate unsuitability for University employment

B. Special Rule Applicable to Internal Hires

1. Individuals who transfer or who are promoted to any position as described above (prior section) are subject to a criminal and non-criminal background investigation. The suitability of an individual for the proposed transfer or promotion will be assessed using the same guidelines as those used to evaluate initial hires.

III. Procedure

A. Methodology of Investigation

1. The University utilizes a third party administrator for conducting background and criminal records investigations. All investigations and records will be obtained and handled in a confidential manner and in compliance with applicable federal and state laws, including the Fair Credit Reporting Act (FCRA). The following procedures will be used in this regard:
 - a. Application materials will provide written notice that a background and/or criminal investigation is required prior to employment
 - b. Written and authorized permission will be obtained from all final candidates prior to initiating a background and/or criminal investigation
 - c. Candidates will be notified in writing in cases where the University is considering taking adverse action based in whole or in part on the information contained in the investigation (pre-adverse action disclosure)

- d. If the University decides to take adverse action, the candidate will be provided an adverse action notice, including further information pertaining to the candidate's rights under FCRA

B. Special Provisions Pertaining to Sex Crimes

1. With respect to a sex crime, if the results of a criminal records check reveals a conviction, plea of guilty, Alford plea, or adjudication of guilt of a sexual offense, the University reserves the right to categorically disqualify from employment all such individuals. The right to terminate from employment also applies to individuals who are (then) current employees and who later are determined to be guilty of a sex crime as defined under KRS 17.500(8a) (8b) (8c). Termination may be made as of the date of conviction, as authorized under KRS 164, as amended by HB 3, Section 19. All employees are required to report sex crimes (as defined above) which occur while in an active employment status with Western Kentucky University.

C. Suitability for Employment

1. In determining suitability for employment where there is a record of criminal conviction, consideration shall be given to such factors as the specific duties of the position, the number of offenses and circumstances of each, recentness of the conviction, whether the conviction arose out of an employment situation, the accuracy of the explanation of the nature and circumstances of the conviction as stated by the applicant on the University's employment application documents and any evidence of rehabilitation.

D. Evaluation of Adverse Criminal Information

1. Decisions as to the consequences of adverse criminal background information disclosed by an applicant, not disclosed by an applicant and/or discovered through a criminal background check shall be made by the Department of Human Resources or Office of Academic Affairs in consultation with the Office of General Counsel.

E. Evaluation of Adverse Non-Criminal Information

1. The University will utilize the same general administrative guidelines to evaluate adverse non-criminal background information as those used to evaluate adverse criminal information.

F. Access to Background Investigation Results

1. Individuals who are not offered employment as a result of a background investigation, or who are terminated, or who are denied a promotion/transfer are notified of such and informed of rights to dispute inaccurate information in accordance with applicable law. An applicant may view his/her investigation report, whether or not any adverse information is found, by contacting the Department of Human Resources or Office of Academic Affairs.

G. Use of Background Investigation Results

1. Information obtained by the University through a background investigation will be treated as confidential and will only be shared with University officials on a need to know basis, except where required to be revealed.

IV. Exclusions

None

V. Related Policies

See also: KRS 17.500(8a) (8b) (8c)
KRS 164, as amended by HB 3, Section 19; University Policy

VI. Reason for Revision

Appendices: