



HLC Accreditation Evidence Document

Title: UAPPM Policy 3280: Background Checks

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3280

BACKGROUND CHECKS

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Authorized by Regents' Policy 6.2 "Hiring, Promotion, and Transfer"

1. General

The University of New Mexico seeks to provide a safe environment for students, patients, employees, and community members. In order to minimize risks to University safety and security, applicants selected for and employees occupying certain staff and student positions designated as "safety or security sensitive" must undergo background checks. Background checks are conducted to promote a safe environment, protect students, faculty, staff, visitors, patients, and University assets, and enable hiring officers to make prudent employment decisions based upon more comprehensive job-related information. The depth of the background check will depend on the type of position. If required by law, regulation, contract, or for the health, safety, or welfare of any person, the University may require more extensive background checks or may conduct subsequent periodic background checks (generally limited to one per year). In addition, when an applicant's employment materials indicate criminal conviction, a criminal background check may be conducted. Volunteers and contractors who have been identified as performing functions similar to that of safety or security sensitive positions or working in a location identified as safety or security sensitive are subject to all provisions of this policy.

1.1. Definition of Crime

For the purposes of this policy "crime" means any and all felonies and misdemeanors, but does not include minor traffic offenses for which the penalty is a fine. Records that have been expunged by a court of competent jurisdiction do not appear on an individual's criminal record and will not be included in information included in a background check.

2. Safety and Security Sensitive Positions

In consultation with hiring officers, the University Division of Human Resources (HR) will determine which staff positions require background checks. A list of positions which are currently subject to background checks can be found on hiring section of the HR Website. Student Employment and the Office of Graduate Studies will determine which student positions require background checks. Elements considered in the determination to require a background check may include, but are not limited to:

- direct responsibility for the care, safety, and security of people;
- direct responsibility for the safety and security of personal or University property;
- responsibility for cash, checks, and credit cards;
- responsibility for confidential or personal information, i.e. social security numbers and medical/student records;
- access to select agents or controlled substances;
- extensive authority for committing the financial resources of the University;
- responsibility for operating vehicles and machinery or handling toxic materials/systems that could

- cause death, injury, or health problems;
- master key access to University-owned residences, sensitive facilities, and/or multiple facilities;
- requirement for a professional license, certification, or degree, the absence of which would expose the University to legal liability;
- direct responsibility for institutional information systems and/or computer security;
- direct care of or have routine and unsupervised physical or financial access to any patient;
- providing child care services, working in a child care facility, or working directly with participants under the age of eighteen (18); and
- requirement of a contract, grant, law, or regulation.

3. Hiring, Promotions, Transfers, and/or Reclassifications

Recruitment information for positions that have been designated as safety or security sensitive will state that a background check is required, and that future and/or continued employment in the position is contingent upon obtaining and maintaining a satisfactory background check, which is one that does not include any disqualifying findings. All applicants (including current employees) for such positions must complete a background check release form. Applicants who are unwilling to submit to a background check will not be considered for employment, promotion, or transfer to a safety or security sensitive position.

Normally, offers of employment should not be made until the background check process has been completed, but should an offer be made, the offer is contingent upon completion of a satisfactory background check. Employees will not be allowed to begin employment until a satisfactory background check has been obtained unless prior authorization is granted by HR. Employees hired pending a satisfactory background check will be hired on a "conditional basis."

4. Current Staff and Student Employees

Staff and student employees occupying positions identified as safety or security sensitive will be notified and asked to complete a background check release form. Employees who are unwilling to submit to a background check will be subject to disciplinary action, up to and including discharge. If a completed background check regarding a current employee reveals adverse information or if there has been falsification or omission of information, it may be grounds for disqualification, separation, and/or designation as ineligible for rehire in accordance with **Policy 3215 "Performance Management," UBP** and student employment policies. HR will notify the hiring officer of any such finding. If after reviewing the finding and discussing it with HR, the hiring officer wishes to retain the employee, this decision must be approved by the cognizant executive vice president.

4.1. Disclosure

If an individual occupying a position requiring a background check is convicted of a crime, as defined in **Section 1.1.** herein, he or she must notify his or her supervisor within seven (7) calendar days. This information may result in the need to complete a subsequent background check. Failure to report convictions will be subject for disciplinary action, up to and including discharge.

5. Performance of Background Checks

All background checks will be conducted by trained individuals in accordance with all applicable laws and regulations including, but not limited to, the New Mexico Criminal Offender Employment Act, New

Mexico Caregivers Criminal History Screening Act, Federal Fair Credit Reporting Act (FCRA), and Occupational Safety and Health Administration (OSHA) regulations. If a third party vendor conducts the background checks the vendor is required to maintain the proper expertise and comply with all aspects of this policy. Background checks generally go back seven (7) years unless the governing statute of limitations is longer. Background checks can only be conducted at the request of HR, the University Police Department, Safety and Risk Services in accordance with **Policy 7780 "Use of University Vehicles," UBP**, and/or as required by state and federal laws or regulations on individuals applying for or occupying positions designated as safety and security sensitive as described in **Section 2**. herein. Supervisors may not conduct or request background checks.

The information obtained in a background check and the final status of the check are confidential, and the use of such information in making a hiring decision is limited by law. To ensure compliance with state and federal laws, consistency in application, and confidentiality, background checks will be administered by HR. In addition, the University Police Department will administer criminal justice background checks for Police Department applicants and employees and when required in the course of an investigation and Safety and Risk Services will check the driving records of drivers of University vehicles. At the University's discretion or as required by law, background checks may be conducted on a periodic basis if warranted. If departments have questions about background checks or critical positions they should contact HR. The cost of performing background checks will be paid by the hiring/employee's department.

5.1. Categories of Background Checks

There are different levels of background checks depending on the nature of the position. These levels may include, but are not limited to:

- confirmation of a person's identity;
- verification of education degree, license, or certificate required for position;
- review of Department of Motor Vehicles records;
- review of criminal conviction records; and
- other background checks as required by law.

5.2. Pre-Adverse Letter and Notification of Adverse Decision

If during the course of the background check information is identified that would result in disqualification of the applicant/employee, HR will send the applicant/employee a pre-adverse letter indicating the preliminary finding and give the individual an opportunity to respond before a final decision is made. A decision to exclude an applicant or disqualify an existing employee on the basis of a background check will take into consideration the seriousness, extensiveness, and relevance of the information to the responsibilities of the position.

HR will notify the hiring officer and the applicant/employee when the background check has been completed and whether the applicant/employee "passed" or "failed" the background check. The hiring officer may request the specific reasons or basis for the decision, but must maintain the confidentiality of the process. If after viewing the information and discussing the decision with HR, the hiring officer wishes to pursue hiring, the hiring must be approved by the cognizant executive vice president. Employees who wish to appeal an adverse decision must follow the procedures described in **Policy 3215 "Performance Management," UBP, Policy 3220 "Dispute Resolution", UBP** and

student employment policies.

5.2.1. Applicant/Employee Notification

If the background check results in an adverse decision, HR will notify the applicant/employee in writing, stating the specific reasons or basis for the decision, if available, and the entity that provided the pertinent information.

5.3. Reconsideration Request by Applicant or Employee

If an applicant or current employee feels there is an error in the information provided in the background check, the applicant/employee may request administrative reconsideration by contacting HR; however, positions are not required to be held open pending the reconsideration. The University's decision on the reconsideration is final.

6. Confidentiality, Maintenance and Security of Records

HR will maintain records of background checks. All records are confidential, protected by law, and not subject to public disclosure, except as provided herein. Records obtained shall not be used for any purpose other than determining whether an applicant or employee has a record that would constitute disqualification. Except on receipt of legal process, or with the written consent of the individual, records obtained and the information contained therein shall not be disclosed to any other person or agency, unless otherwise required by law. These records may be subject to inspection by governmental or other agencies with regulatory jurisdiction over the University.

Comments may be sent to UBPPM@UNM.edu
<http://www.unm.edu/~ubppm>

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