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## Background Investigation Policy

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*Responsible Office: Human Resources Division*

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### Policy Statement

Georgia Health Sciences University will conduct background investigations as a condition of employment on all regular full-time and part-time new hires and rehires, as well as temporary, non-student workers.

### Reason for Policy

The purpose of this policy is to comply with University System of Georgia requirements regarding background investigations as well as applicable state and federal laws. This policy also supports GHSU's commitment to risk management, ensuring that a thorough review of the background of candidates for employment is conducted, while also serving to ensure the protection of institutional resources.

### Entities Affected By This Policy

All persons seeking full or part-time employment with Georgia Health Sciences University as well as all employees with Georgia Health Sciences University.

### Who Should Read This Policy

All employees of Georgia Health Sciences University as well as all persons interested in employment with Georgia Health Sciences University should be aware of this policy.

### Contacts

Contact	Phone	e-mail/URL
Human Resources Division	706-721-1389	<a href="http://www.georgiahealth.edu/hr/">http://www.georgiahealth.edu/hr/</a>
Office of Legal Affairs	706-721-4018	<a href="http://www.georgiahealth.edu/services/legal/">http://www.georgiahealth.edu/services/legal/</a>

### Printable Version of This Policy

<http://www.georgiahealth.edu/policies/documents/background.pdf>

### Related Documents

None

### Definitions

**Background Credit Committee (BCC)** –The administrative committee charged with determining questions of suitability of hire specific to an employee's credit worthiness. The BCC shall consist of an odd number of representatives from Human Resources, the Controller's Office, and Materials Management. The reviewing BCC will consist of no more than five (5) persons.

**Background Investigation** – An investigation comprised of a criminal background check (including social security number check and, for positions with access to or responsibility for money, a credit check); confirmation of credentials; confirmation of employment history; and verification that an individual is not an excluded party pursuant to federal restrictions.

**Background Investigation Committee (BIC)** – The administrative committee charged with determining questions of suitability of hire. The BIC shall consist of representatives from Human Resources, Public Safety and Legal Affairs.

**Consent Form** – A form authorizing the institution to conduct a background check. All employment finalists and promotion candidates at the institution are required to sign a Consent Form to be considered for employment with Georgia Health Sciences University.

**Hiring Department** – The department hiring a new employee (whether internally or externally), or promoting an existing employee.

**Positions of trust** – A position of trust is a position that: involves direct patient contact or care; has contact with children; holds grand master key access to buildings; has responsibility for facilities management; has access to cash and financial data; works in public safety; has access to confidential information; and has access to or potential contact with hazardous materials. GHSU also reserves the right to designate a position as a position of trust based on job responsibilities.

### **Statement of Policy**

It shall be a condition of employment with any institution of the University System of Georgia (USG) to submit to a background investigation. GHSU will perform background checks on regular full-time and part-time new hires and rehires, as well as temporary (non-student workers) hires. In addition, a background investigation will be performed on existing employees being transferred, reassigned, reclassified or promoted into a position of trust unless the institution has conducted a background investigation consistent with this policy. The background investigation process supports GHSU's commitment to risk management, and also assists in the overall effort to protect institutional resources. Offers of employment will be conditional pending the result of the background investigation, which will include, at a minimum, the following:

- A state and federal criminal history check covering a minimum of seven (7) years;
- A nationwide sex offender search;
- A social security number check using the Form I-9 and the Federal E-Verify system;
- An educational/academic credentials check for exempt positions including executive, administrative, professional, contract, and academic positions;
- A credit check for positions that have access to financial resources such as handling money, checks, purchasing cards, etc.; and
- A check to verify that individual is not an "Excluded Individual" under the United States Exports Control regulations or ineligible under Medicare, Medicaid, National Institutes of Health regulations and standards.

Offers of employment for positions of trust are conditional pending the result of a state and federal criminal history check covering more than the minimum of seven (7) years. Positions of trust are those that involve interaction with children, after-hours access to facilities, access to financial resources or that have been otherwise identified by GHSU to require a more extensive background investigation.

A background investigation shall also be performed on any existing employee being transferred, reassigned, reclassified or promoted to a position of trust.

Each employee of a contractor or vendor requiring access to any GHSU facility or property must submit to a criminal history background check to be conducted by GHSU Public Safety prior to being issued an identification badge. Persons with criminal histories can be denied access to GHSU facilities and property.

Temporary employees hired through GHSU approved temporary agencies and assigned to work in GHSU departments must also submit to a criminal background check through Human Resources. The same procedures that apply to hired employees will apply to those on assignment by a temporary agency. Departments must notify Human Resources of their intent to engage a temporary agency and arrange a background check for the temporary agency employee prior to the beginning of the assignment.

### **Determining Employment Eligibility for Applicants with Criminal History**

Only criminal convictions may be considered when determining a candidate's eligibility for a specific position or employment as a whole.

Detention and/or arrest without conviction do not constitute valid grounds for adverse employment decisions and do not play a part in the decision-making process. If an individual has a criminal case pending, his or her suitability for continued employment will be reviewed upon disposition of the case. Nevertheless, it may be necessary for GHSU to move forward in the hiring process to satisfy its employment needs. GHSU will make this determination on a case by case basis.

1. Felony convictions and convictions involving crimes of moral turpitude automatically disqualify an individual for employment with Georgia Health Sciences University in a position of trust.
2. Failing to disclose a criminal conviction history where required in employment application materials will disqualify a candidate for employment with an institution of Georgia Health Sciences University.
3. When determining whether a candidate with disclosed criminal convictions is eligible for employment or promotion, the BIC will consider the specific responsibilities of the position for which the candidate is being considered, the nature, number and gravity of crimes for which the candidate was convicted and the amount of time that has passed since the conviction. A determination of ineligibility for a specific position as the result of a criminal background does not necessarily mean that an individual is ineligible for all employment with the institution and each such determination will be made on a case by case basis.

### **Process for Conducting Background Investigation**

Notice should be included in all job postings that finalists will be required to submit to a background investigation.

The Hiring Department is responsible for confirming the employment history and credentials of an applicant before having Human Resources initiate the background investigation and before extending an offer of employment. Human Resources will coordinate with the selected candidate to ensure that they have completed the Background Investigation Consent Form. With respect to the promotion of existing employees, GHSU shall obtain an existing employee's consent prior to initiating a background investigation. These existing employees will undergo a background investigation if an investigation has not been conducted within the last seven (7) years.

A conditional offer of employment/promotion may be made at this time. **All offers of employment must be made in writing and must include the following statement: "This offer of employment is contingent upon completion of a background investigation including a criminal background check demonstrating your eligibility for employment with Georgia Health Sciences University, as determined by Georgia Health Sciences University in its sole discretion, confirmation of the credentials and employment history reflected in your application materials and, if applicable, a satisfactory credit check."**

Upon receipt of a signed Consent Form of the Hiring Department's selected candidate, Human Resources will initiate the background investigation. If the top candidate is not hired for the involved position (e.g. criminal conviction precludes hiring, other criminal convictions render applicant ineligible for the specific position, candidate does not accept the job offer, etc.), the Hiring Department may select another candidate for the position. If the next candidate selected for the position has already signed the Consent Form, Human Resources will initiate the background investigation process. If the next applicant identified as the Hiring Department's top candidate has not signed a Consent Form, then Human Resources will initiate the Background Investigation as soon as a signed Consent Form has been submitted.

### **How Criminal Background Check Information is Processed:**

Background Investigation reports are submitted directly to Human Resources by the entity performing the investigation. The BIC is responsible for determining the eligibility of the selected candidate for employment with the institution. Human Resources should notify the Hiring Department of this determination. The BIC makes its decision about the selected candidate's eligibility as follows:

1. **The Background Investigation report shows no convictions:** the selected candidate is eligible for employment.
2. **The Background Investigation report shows a conviction of one or more felony convictions or crimes of moral turpitude:** the selected candidate is ineligible for employment with the institution in a position of trust.
  - a. Prior to making this final determination, Human Resources must give a pre-adverse action disclosure to the candidate. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute information in the report. A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.
  - b. The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances

surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to the finalization of the hiring decision.

c. If the candidate successfully shows that she/he has no felony convictions, then the candidate shall be eligible for employment. Human Resources will notify the Hiring Department of this determination.

d. If the candidate is unsuccessful in showing no felony convictions or convictions of crimes of moral turpitude, then the candidate is ineligible for employment in a position of trust. An adverse action notice must then be sent to the candidate. This notice must include:

- i. The name, address and telephone number of the company that supplied the Background Investigation report;
- ii. A statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- iii. A notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request within sixty days.

**3. The Background Investigation report shows one or more criminal convictions and the applicant is not applying for a position of trust:**

a. The criminal convictions were all disclosed by the selected candidate in the application materials. The BIC will determine whether the candidate is eligible for the involved position based on the job description and the nature of the crimes for which the candidate was convicted.

- i. If the BIC determines the candidate is eligible, then Human Resources will so notify the Hiring Department.
- ii. If the BIC determines the candidate is not eligible, then prior to making this final determination, Human Resources must give a pre-adverse action disclosure to the candidate.

1. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute information in the report. A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.

2. The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to the finalization of the hiring decision.

3. If the candidate successfully shows that she/he does not have the criminal convictions that led the BIC to determine that the candidate was ineligible for employment, then the candidate shall be eligible for employment. Human Resources will notify the Hiring Department of this determination.

4. If the candidate is unsuccessful in showing that she/he does not have the criminal convictions that led the BIC to determine that the candidate was ineligible for employment, the candidate is ineligible for employment. An adverse action notice must then be sent to the candidate. This notice must include:

- a. The name, address and telephone number of the company that supplied the Background Investigation report;
- b. A statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- c. A notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request within sixty days.

b. The criminal convictions were not disclosed by the selected candidate in the application materials. Human Resources will notify the candidate in writing that the Background Investigation revealed criminal convictions not disclosed in his/her application materials and that

s/he will be removed from consideration for the involved position due to misrepresentation and falsifying application materials unless s/he contacts Human Resources and corrects any inaccuracies contained in the report within a minimum of three (3) days. This notification will be accompanied by a pre-adverse action disclosure. The correction of inaccuracies, if made, may only allow the candidate to continue to be considered. The BIC will evaluate the candidate in accordance with other sections of this policy and may deem the candidate ineligible. The original failure by the applicant to disclose the convictions will be considered.

- i. The pre-adverse disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute the information in the report. A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.
- ii. The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to the finalization of the hiring decision.
- iii. If the candidate successfully shows that s/he has no criminal conviction, then the candidate shall be eligible for employment. Human Resources will notify the Hiring Department of this determination.
- iv. If the candidate is unsuccessful in showing no criminal convictions, then the candidate is ineligible for employment due to misrepresentation and falsifying application materials. An adverse action notice must then be sent to the candidate. This notice must include:

1. The name, address and telephone number of the company that supplied the Background Investigation report;
2. A statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
3. A notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request within sixty days.

### **Moral Turpitude**

Courts in Georgia have found that moral turpitude "includes everything contrary to justice, honesty, modesty or good morals." In determining whether a crime is one that involves moral turpitude, the courts have applied the following test: does the crime, disregarding its punishment, meet the test as being contrary to justice, honesty, modesty, good morals or man's duty to man?

The following are some crimes involving moral turpitude:

- Fraud or false pretenses in obtaining something of value
- Larceny or a misdemeanor theft by taking
- Larceny after trust
- Murder
- Soliciting for prostitutes
- Voluntary manslaughter
- Sale of narcotics or other illegal drugs
- Pattern of failure to file federal tax returns in years in which taxes are due
- Criminal issuance of a bad check
- Making a false report of a crime

The following have been held to be not crimes involving moral turpitude:

- Public drunkenness
- Driving under the influence
- Carrying a concealed weapon
- Unlawful sale of liquor
- Fighting
- Simple Battery

- Simple Assault
- Misdemeanor criminal trespass
- Child abandonment
- Misdemeanor offense of escape
- Misdemeanor offense of obstructing a law enforcement officer
- Possession of less than one ounce of marijuana

### **Arrests and Convictions**

Any current employee charged with a crime (other than a minor traffic offense) shall report being charged with such crime to the Associate Vice President of Human Resources Office within 72 hours of the employee becoming aware of such charge. Failure to report being charged with such a crime may result in appropriate disciplinary action, including termination of employment.

Any current employee who is convicted of a crime (other than a minor traffic offense) shall report such conviction to Human Resources within 24 hours of the conviction. Failure to report such conviction may result in appropriate disciplinary action, including termination of employment. The BIC shall review the nature of the crime and make a determination on what, if any, action should be taken regarding the employee's employment status. The BIC shall review the crime utilizing the same standards as it applies in reviewing crimes committed by a candidate for employment but may consider other factors, including the length of employment of the employee and performance reviews.

### **Credit Checks**

If the employment action requires that the background investigation include a successful credit check, the BIC shall refer any credit check review to the BCC. The BCC shall consist of an odd number of representatives from Human Resources, Controller's Office, and Materials Management. The reviewing BCC will consist of no more than five (5) persons. The BCC will review an employee's credit worthiness according to the following guidelines:

1. Student loans currently in default and bankruptcies should be considered bad credit, however, a bankruptcy followed by good credit established after filing, indicates an attempt to rectify past credit problems and may be considered acceptable if the bankruptcy occurred over three years ago.
2. Credit reports indicating installments in excess of 40% of gross monthly income are not acceptable.
3. One or more unpaid collections and judgments are considered to be bad credit. Collections and judgments appear under "Public Records." Collections and judgments can be paid, marked paid or satisfied but will not be removed from the credit report for 7 years. If collections and judgments have been paid and all other credit is satisfactory, the institution may approve, at their discretion.
4. Mitigating factors regarding an applicant's credit report, such as hardships and disputes with creditors, will be considered by the institution upon submission of objective written evidence, as long as the evidence presented, in the sole opinion of the institution, represents reliable evidence beyond the applicant's control.
5. It is not the responsibility of the institution to discover research or verify that there are possible mitigating factors. The burden of proof to present mitigating factors rests entirely with the applicant.

If the BCC determines that the employee fails to meet credit screening criteria, Human Resources must give a pre-adverse action disclosure notice to the candidate. The notification must include the following:

The name, address, and telephone number of the Credit Reporting Agency (CRA) (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.

A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.

A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.

A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

### **Maintenance of Background Investigation Reports**

Background Investigation Reports should be delivered directly to Human Resources by the entity performing the investigation. The report will remain with Human Resources until the determination on employment eligibility has been made. Human Resources shall place a certification in the employee's personnel file stating the date the report was obtained, the name of the person reviewing the report and a statement that the report showed that the employee was or was not eligible for employment with the institution. The report itself is not provided to nor maintained by the Hiring Department. Before Human Resources certifies that an individual is ineligible for employment, Human Resources will alert the Hiring Department to allow the department three days to provide any input. Input is optional. The report shall then be stored segregated from the employee's personnel file.

Background Investigation Reports obtained on existing employees should be delivered to Human Resources by the entity performing the investigation. The report will remain with Human Resources until a determination on continued employment eligibility has been made. Human Resources shall place a certification in the employee's personnel file stating the date the report was obtained, the name of the person reviewing the report and a statement that the report showed that the employee was or was not eligible for employment with the institution. The report shall then be stored segregated from the employee's personnel file. The report itself is not provided to the employee's department.

Consent forms for Background Investigations shall be placed in the personnel file of the employee and maintained in accordance with USG Record Retention Guidelines.

For all non-successful applicants and current employees, consent forms for background investigations, a copy of the pre-adverse action disclosure, a copy of the adverse action notice, the statement of the person reviewing the Background Investigation report to determine if the subject of the report was or was not eligible for employment and the Background Investigation Report must be retained in accordance with USG Record Retention Guidelines.

A copy of his or her report shall be given to each applicant and/or employee as applicable.

### Responsibilities

The responsibilities each party has in connection with *Abbreviated Policy Title*, are:

(Party)	(Responsibility)
Associate Vice President for Human Resources	Policy Implementation
Office of Legal Affairs	Legal Interpretation of Policy
All Georgia Health Sciences University employees	Adhering to the Administrative Policies of the Georgia Health Sciences University.

### Forms

Criminal History Record Release and Background Investigation Form

[http://www.georgiahealth.edu/hr/employment/documents/CriminalHistory\\_2.18.11PDF.pdf](http://www.georgiahealth.edu/hr/employment/documents/CriminalHistory_2.18.11PDF.pdf)

Georgia Health Sciences University Credit Check Consent Form

<https://portal.georgiahealth.edu/portal/page/portal/forms/Administration/HR/Employment/GHSU%20Credit%20Check%20Consent%20Form%202.1.11%20PDF.pdf>

### Appendices

None

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