



## CRIMINAL BACKGROUND CHECK POLICY

### PURPOSE

To ensure that UW-Green Bay's mission is supported by qualified employees who foster a safe and secure environment for all members of the university community. This policy will also allow the University to take meaningful and reasonable actions to protect its funds, property and other assets.

### POLICY STATEMENT

Except as otherwise provided in this policy, a criminal background check shall be performed on each new hire for a UW-Green Bay position. Criminal background checks shall be conducted on candidates recommended for hire, either prior to the extension of an offer of employment, or as part of an offer of employment that is made contingent upon a successful criminal background check. A criminal background check shall also be conducted on current employees and volunteers holding a "position of trust with access to vulnerable populations" as defined in paragraph 1(a) of this policy who have not previously been subject to such a criminal background check by the University. Former UW-Green Bay employees who are rehired after an absence of more than a year will be subject to a criminal background check prior to employment. Employees and volunteers holding a position of trust with access to vulnerable populations shall be subject to a criminal background check every four years, and shall be required to self-disclose certain criminal offenses.

### POLICY

#### 1. *Position of Trust*

"Position of trust" is defined as a paid or volunteer position with one or more of the following responsibilities:

- a. Access to vulnerable populations – Responsibilities require unsupervised or significant access to vulnerable populations, defined as minors and medical patients. For purposes of this policy, a minor is a person under the age of eighteen (18) who is not enrolled or accepted for enrollment at a UW System institution. Examples of settings with vulnerable populations include child care centers, summer camps for minors, precollege or enrichment programs, and health care facilities. This category also includes employees who are not directly working in those units, but have unsupervised access to the unit when the vulnerable population is present.
- b. Property access – Responsibilities require the use of master keys/card access and pertains to employees with key access to offices, facilities, or worksites other than their own worksite, including UW residential housing facilities.
- c. Financial/fiduciary duty – Principal responsibilities (50% or more) require handling, receiving, or having custody of money, checks or securities, credit card accounts, or accounting for supplies or other property; authorizing (or making appropriations for) expenditures; approving, certifying, signing or countersigning checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or service of process; maintaining or auditing accounts of money, checks, securities, time records, supplies, or other property, or taking physical inventories of money, checks, securities, supplies, or other property.



- d. Executive positions – Responsibilities involve top-level management functions throughout the institution including roles as Chancellor, Provost, and Dean. Executive positions are defined as all limited appointments and include any movement from a limited appointment to a different limited appointment.

## 2. ***Coverage of Prospective Hires and Employees***

Criminal background checks must be conducted on prospective hires who are not University of Wisconsin-Green Bay employees, and on employees currently not in a position of trust who are seeking to move to a position of trust within the University through promotion or otherwise. Criminal background checks must be conducted on current employees holding a position of trust with access to vulnerable populations, as defined in paragraph 1(a) of this policy, who have not previously been subject to a criminal background check by the University. In addition, criminal background checks must be performed every four years on employees in positions of trust with access to vulnerable populations.

Notwithstanding the preceding paragraph, unless otherwise required by law to perform background checks for specified positions or unless the position involved has been designated as a “position of trust,” the supervisor, in conjunction with Human Resources, will determine whether a criminal background check must be conducted on prospective hires for the following employee groups: (1) temporary or limited term employees; (2) hourly student employees; and (3) interns. In making this determination, the level of direct supervision and guidance provided to employees in these categories and the nature of the duties of the job will be considered (please see addendum).

## 3. ***Coverage of Vendors and Contractors***

To the maximum extent feasible, any agreement with a vendor or contractor whose employees, affiliates, or volunteers will have routine or unsupervised access to vulnerable populations (minors or medical patients) in the course of the contract must include a representation from the vendor or contractor stating that these employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected by the contractor that includes a check of the vendor’s proprietary national criminal background check database.

## 4. ***Coverage of Volunteers***

UW Green Bay will perform criminal background checks on prospective volunteers when the volunteer position involved is a position of trust, or when required by law to perform criminal background checks for specified volunteer positions. Otherwise, the University may determine whether a criminal background check should be conducted on prospective volunteers. In making this determination, the level of direct supervision and guidance provided to volunteers and the nature of the duties of the volunteer position will be considered.

Criminal background checks must be conducted on current volunteers holding a position of trust with access to vulnerable populations, as defined in paragraph 1(a) of this policy, who have not previously been subject to a criminal background check. A criminal background check is performed every four years on volunteers in a position of trust with access to vulnerable populations.

## 5. ***Coverage of Certain Users and Lessees of University Lands and Facilities***

Facilities use agreements or leases with outside organizations that use or lease University lands and facilities to operate multi-day programs for minors, or programs for minors that involve an overnight stay, must include a representation from the organization that its employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected



by the organization that includes a check of the vendor's proprietary national criminal background check database.

## 6. **Conducting Criminal Background Checks**

Finalists for employment must authorize a criminal background check authorization form. An applicant's failure to consent to a criminal background check or falsification of any related information is grounds for the rejection of the applicant. Similar procedures must be implemented for current employees, volunteers and prospective volunteers who are subject to criminal background checks.

A criminal background check on prospective hires, employees and volunteers must include a check of the Wisconsin Department of Justice, Crime Information Bureau electronic database, and a check provided by a criminal background check vendor that includes the following components:

- Social Security Number Trace – Authenticates the individual's information and generates a list of addresses the individual has lived at for the last seven years; as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the individual.
- Criminal Felony/Misdemeanor by County of Residence – superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.
- Sex Offender Registry – sex offender search by state.
- National Criminal Background Database – search of the vendor's proprietary national criminal background check database.

The University will have certain additional duties under the federal Fair Credit Reporting Act when retaining a vendor to perform criminal background checks.

Additional criminal and non-criminal checks (e.g., motor vehicle, etc.) may be run when appropriate in relation to the position.

UW-Green Bay will conduct an appropriate U.S. criminal background check on an applicant for employment, current employee, or volunteer who is a foreign national and subject to this policy. A criminal background check in the individual's prior country(ies) of residence will be also conducted if his/her country(ies) of residence provides a criminal background check for the time period during which the individual was a resident. A media search is not considered an appropriate criminal background check and, therefore, institutions are not required to conduct media searches.

## 7. **Application of the "Substantial Relationship" Test under the Wisconsin Fair Employment Act**

Wisconsin law prohibits an employer from discriminating against an applicant or employee on the basis of arrest or conviction record unless the pending criminal charge or conviction substantially relates to the circumstances of the position. Applicants with a criminal history will not be automatically disqualified from UW System employment, and a UW System employee's criminal history will not result in automatic disciplinary action or dismissal. If an applicant's or employee's criminal background check reveals a pending criminal charge or criminal conviction, the UW institution must engage in an individual analysis to determine whether a substantial relationship exists between the pending charge or criminal conviction and the functions of the position.

## 8. **Self-Disclosure of Arrests, Charges, or Convictions**

Employees who hold positions of trust with access to vulnerable populations, as defined in paragraph 1(a) of this policy, must report any criminal arrests, charges, or convictions (excluding misdemeanor traffic offenses punishable only by fine) to Human Resources within twenty-four (24) hours or at the



earliest possible opportunity. Failure to make the required report may constitute a violation and may result in disciplinary action, up to and including dismissal. The same procedures must be implemented for volunteers who hold a position of trust with access to vulnerable populations.

**9. *Statutorily Mandated Background Checks***

Notwithstanding anything in this policy, institutions shall continue to perform criminal background checks for certain, specified positions in the form and manner required by state or federal law. Laws mandating criminal background checks for certain positions include: the Wisconsin Caregiver law (covering prospective caregivers for vulnerable populations such as minors, as well as those licensed by the state to provide direct health care services and treatment to clients); the Wisconsin Fiduciary law (covering positions that involve accounting, auditing, financial management, accounts receivable, accounts payable, procurement, retail operations, tax and fee collections, payroll, and handling of cash and checks); and the federal Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agricultural Protection Act of 2002 (covering employees who handle and work with hazardous agents or materials in campus labs, buildings or storage facilities).

**10. *Other Criminal Background Checks***

Nothing in this policy shall be construed to prevent UW-Green Bay, with a reasonable basis from obtaining, at any time, criminal background check information on any applicant, current employee or volunteer.



## ADDENDUM

### JOB DUTIES/POSITIONS THAT REQUIRE A BACKGROUND CHECK

- Positions in a teaching and/or training capacity
- Camp counselors or those who travel with students or teams
- Cash handling with access to safes, cash deposits, or authorization for refunds
- Handle, receipt for, or have custody of cash, checks or securities, or account for supplies or other property; authorize (or make appropriations for) expenditures; approve, certify, sign or countersign checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or serve process
- Positions that maintain or audit accounts of money, checks, securities, time records, supplies or other property, or take physical inventories of money, checks, securities, supplies or other property
- Positions that set up checking or credit card accounts, make payments to vendors, sign procurement contracts, or global access to electronic files
- Significant inventory control responsibilities, including the receipt and release of inventory
- Positions that have unsupervised access to University, employee, or student property, including positions located in the University's residence halls with access to the rooms of students
- Positions that set up, have access to or maintain central personnel records/information, create personnel appointments, process payroll payments, or global access to electronic files
- Positions that set up, have access to or maintain academic records/information of any kind
- Positions that set up, have access to or maintain medical or health care records/information of any kind
- Master or submaster key holders who may have access to equipment, vehicles, central warehouses, and equipment storage
- All public safety related duties
- Positions that set up or maintain the University's server, university-wide databases, or campus-level application-specific software editing and modifying
- Other functions for which, upon consultation between Human Resources, Legal Counsel, and the Hiring Authority, a criminal conviction records investigation is determined to be required