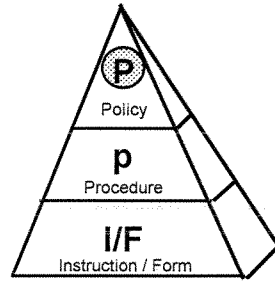




Policy Title: Criminal Background Checks

**Current Policy Number:** PER 2.04; Sec IV

**Date effective if known:** 07/12/06



**Submitted CBCC:** 05/31/06  
12/12/06 (Current Draft)

**Date Approved** \_\_\_\_\_

**I. PURPOSE:**

House Bill 3 of the Kentucky General Assembly 2006 session (KRS 164.281) becomes effective July 12, 2006, and requires all public institutions of post secondary education to conduct state and national criminal history background checks on all initial hires.

**II. DEFINITIONS:**

**Initial Hire:** For the purpose of this policy, any person beginning employment with the university who has not been on university payroll during the previous 12 months.

**Employee:** For the purpose of this policy, any staff, faculty or student who receives a wage or salary. Excluded from this definition are the following student groups: G12 (Graduate Fellows and Assistants), H12 (House Staff), and D12 (Doctoral Trainees), Hand Fellows, and Federal Work Study students.

**Adverse Employment Decision:** For the purpose of this policy, reviewable findings that require appropriate supervision as a condition of employment, or form a basis for a decision not to hire or to terminate employment.

**Reviewable Findings:** For the purpose of this policy, any conviction discovered in the course of a state or national criminal history background check.

**Temporary Worker:** For the purpose of this policy, a staff position that is not eligible for benefits and does not normally exceed a six month period except in exceptional situations.

**III. POLICY:**

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A. As a condition of employment and in compliance with KRS 164.281, the university has established a background check process. As part of the application process, each applicant will be required to complete a self-disclosure questionnaire and a consent form.

If a candidate declines to complete either the self-disclosure or the consent form, the offer of employment will be withdrawn.

B. The university reserves the right to withdraw or rescind any offer of employment based on failure to disclose information fully and truthfully or, if in the judgment of the university, information developed in the course of the background check so warrants. A criminal conviction will not necessarily disqualify the applicant from consideration. However, if an applicant fails to disclose information fully and truthfully, then the university will have the right to deny or terminate employment.

C. The university retains the right to perform, and act on the results of, a background check on a contractor, employee of a contractor, volunteer for the institution or a program of the institution, or visitor as authorized in KRS 164.281.

D. The policies and procedures for criminal history background checks as outlined in this policy and its procedures, will be administered by the Human Resources Department.

E. If, on review of the results of the criminal history background check, a public institution of postsecondary education finds that the applicant has been convicted of, pled guilty to, or entered an Alford plea to a sex crime as specified in KRS 17.500 or a violent offense as specified in KRS 439.3401, the institution may deny employment or modify the conditions of employment to provide for appropriate supervision.<sup>1</sup>

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#### **IV. Procedure:**

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A. The statutorily mandated disclosure statement ("**FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT.**") will be included as part of all employment applications and offer letters. A standard university background check authorization form will become a part of all university employment packages, be signed by all those undergoing background checks and be included in the employment hire packet sent to the payroll office.

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<sup>1</sup> KRS 164.281

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B. At the time the conditional offer of employment is extended, a formal background check, which will include state and national criminal history, will be conducted by an outside firm on behalf of the university.

C. For faculty and administrator hires, Human Resources will complete the background check through its third party vendor and submit to Faculty Personnel that a background check was completed and any reviewable findings resulting from that check. Through its internal procedures, Faculty Personnel will inform the Provost and the hiring dean or vice president of reviewable findings. The Provost and hiring dean or vice president will jointly evaluate any reviewable findings, including any additional information solicited from the candidate. The background check and any review shall be completed before the appointment is presented for Board of Trustees action.

D. For staff and student hires, Human Resources will complete the background check through its third party vendor and will work with hiring departments on reviewable findings from background checks. On such occasions, Human Resources will make the final decision.

E. Ordinarily, only students and UofL Temporary Services employees can be hired prior to the background check. If the background check returns a reviewable finding warranting an adverse employment decision, the employee can be removed from the position or terminated from university employment.

F. The existence of a reviewable finding will not necessarily disqualify a candidate from employment. Any decision to accept or reject a candidate with a reviewable finding is solely at the discretion of the university.

G. The university will record within the HRIS that a background check was completed. The university will not retain the content of background check results, except as necessary to document substantiation for an adverse employment decision.

H. In cases of a background check resulting in adverse employment action, a copy of the check shall be provided to the candidate. It shall be the candidate's responsibility to work with the appropriate agency to challenge any information the candidate deems incorrect.

I. Costs of Background Check: The hiring unit will be responsible for the fees for the criminal history background check. A speedtype will be provided by the hiring unit at the time the background check is requested.

J. Previous Criminal History Background Checks: If the university has performed a criminal history background check on an employee within the previous 12 months, a new check will not be required but may be requested.

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K. Valid Driver's License: A Motor Vehicle Records check will be required of all employees who drive a motor vehicle as part of their university position. The results of the check will be considered in employment decisions as described above.

L. Education, Employment and Licensure Checking: Any other checks, validation, etc. required for the position, will continue to be the responsibility of the hiring unit.

M. Any exception to this policy or its procedures involving staff or students must be approved by the Associate Vice President for Human Resources.

N. Any exception to this policy or its procedures involving faculty or administrators must be approved by the University Provost.

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**Authority:**

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KRS 164.281  
15 U.S.C. § 1681 et. seq.(Fair Credit Reporting Act)

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**Supersedes:**

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PER 2.04 Employment Applications, Section IV

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