

Criminal Background Check Policy
Guide to Frequently Asked Questions

Background/Procedural Questions:

1. What does the Criminal Background Check policy require?

In compliance with the Board of Regents Policy #20-19, Resolution 9276 it shall be required that a criminal background check be performed on each new hire for a UW System position.

2. What is UW-System's definition of 'new hire'?

For faculty and academic staff, new hire shall be defined as any prospective employee that is not currently employed by a UW-System campus. For classified service, new hire shall be defined as any prospective employee that is not currently a UW-System or other State of Wisconsin agency employee.

3. Are there any exceptions to this definition?

Possible exceptions included temporary or limited term employees, positions filled by a vendor/contractor, hourly student employees, interns, and unpaid volunteers. Each campus may decide whether checks will be conducted on these positions if a check isn't otherwise required by law (fiduciary responsibility or caregiver law) or involving approved positions of trust (see #5 below for guidelines).

4. Will background checks be conducted on classified employees moving to another position through transfer, promotion, etc.?

Current state classified employees, moving to a position within UW-System through transfer, promotion, demotion, etc. will not be checked unless the check is otherwise required by law (fiduciary responsibility law or caregiver law) or it is determined by the UW campus that the employee is moving to an approved position of trust (see #5 below for guidelines).

5. What is a 'position of trust' and who determines whether the position is considered in that capacity?

A position of trust is a position that has been determined to be of a sensitive enough nature to warrant a check. Each employing unit must make this determination taking into consideration several factors including, but not limited to job duties, location, access, make-up of the population in which the position works, etc.. UW-System has determined that positions located in the residence halls shall be considered positions of trust

If an employing unit decides that a position (other than residence hall positions) should be considered a 'position of trust', a request must be sent to UW-System Administration who will forward it on to OSER for review. OSER will have the final authority to approve or deny the request.

6. Are there requirements of UW-System to notify candidates that a background check will be conducted?

Yes, all vacancy announcements must contain the statement “Employment will require a criminal background check.” Vacancy announcements and ads may use the following language in addition to the required statement: “A pending criminal charge or conviction will not necessarily disqualify an applicant. In compliance with the Wisconsin Fair Employment Act, the University does not discriminate on the basis of arrest or conviction record.”

7. Under what circumstances would a UW-System campus be able to not employ an otherwise qualified candidate based on the criminal background check?

The UW-System will comply with the Wisconsin Fair Employment Act and all other applicable laws to ensure individuals are not discriminated based upon an arrest or conviction record. The hiring campus will be required to determine whether a substantial relationship exists between the nature of the offense and the position. If it is determined that a substantial relationship exists, the hiring campus may decide not to employ the individual.

8. Prior to conducting a criminal background check, a consent form is required from the candidate. Can the consent form be faxed or e-mailed in or is an original document required?

Campus policy/procedures may dictate otherwise, but absent a policy, a faxed or e-mailed consent form may be accepted if it contains the candidate’s signature.

9. How long are criminal background check records maintained?

Records must be kept in a secured location for a period of seven years after the position has been filled.

10. Can the criminal background check information be entered into IADS or the student payroll system to indicate a check has been conducted?

IADS has an open field in which a date may be filled in indicating the criminal background check date. Currently there is not such a field on the student payroll system.

Personnel Transaction Related Questions:

11. Since the criminal background check policy was just implemented on December 1, 2007, and may not have been previously required, do current UW employees need to be checked?

No, current UW employees remaining in their current positions do not need to be checked as a result of the criminal background check being implemented. Should the employee move to a different position which requires a check by law or is an approved position of trust, a criminal background check would be required.

12. Are graduate assistants, teacher assistants, etc. covered by the criminal background check policy?

Yes, these positions should be checked given the likelihood of interaction with students.

13. If a current faculty or academic staff employee moves to a faculty or academic staff position at another UW-Campus, is a check conducted?

No, unless the check is required by law or the position is an approved position of trust.

14. If a current faculty or academic staff employee of UW-System moves to a classified position, is a check conducted?

No, unless the check is required by law or the position is an approved position of trust.

15. If a current classified employee from a different state agency moves to a faculty or academic staff position within UW-System, is a check conducted?

Yes, this would be considered a ‘new hire’ as defined for faculty and academic staff appointments in the criminal background check policy.

16. If a current classified employee from a different campus moves to a faculty or academic staff position within UW-System, is a check conducted?

No, unless the check is required by law or the position is an approved position of trust.

17. If a current classified employee from a different agency moves to a classified position within UW-System, is a check conducted?

No, unless the check is required by law or the position is an approved position of trust.

18. If a faculty or academic staff employee returns to UW-System after a break in state service employment, is a criminal background check conducted?

Dependent upon individual campus policy, as a general rule, if the absence is less than 12 months, a background check does not need to be conducted unless the check is required by law or the position is considered an approved position of trust. If the absence is 12 months or more, a background check is required.

19. If a classified employee returns to UW-System after a break in state service employment, is a criminal background check conducted?

Dependent upon individual campus policy, as a general rule, if the absence is less than 12 months, a background check does not need to be conducted unless the check is required by law or the position is considered an approved position of trust. If the absence is 12 months or more, a background check is required unless the employee had been employed by a different state agency during the interim.

20. If a limited term employee takes a faculty, academic staff or classified position within UW-System, is a criminal background check conducted?

Yes, the new appointment would be considered a ‘new hire’ and therefore a criminal background check would be required.

21. Are criminal background checks required for student hourly positions?

This is dependent upon individual campus policy, however, criminal background checks are required if the student hourly position is a position where a check would be required by law or is an approved position of trust.

22. Are background checks required for individuals who volunteer to work on campus with programs, camps, etc.?

This is dependent upon individual campus policy, however, criminal background checks are required if the position is one in which a check would be required by law or is considered a position of trust.