



Eastern Kentucky University Policy and Regulation Library

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Volume 8, Human Resources

Chapter 1, Employment

Section 1, Criminal Background Investigations

Approval Authority: President

Responsible Executive: Office of Human Resources

Responsible Office(s): Office of Human Resources

Effective: July 12, 2006

Next Review Date: July 12, 2011

Criminal Background Investigations

Statement

KRS 164.281 effective July 12, 2006, requires the University to obtain criminal background checks on all offerees, internal and external, for positions of employment with the University. No candidate for a position shall commence employment until a satisfactory background check has been received by the ECU Office of Human Resources Department and authorization is provided by the appropriate personnel in the HR Department.

This regulation also applies to all volunteers for the University.

Entities Affected

- Applicants for Employment
- Hiring Officials
- HR employment staff
- Volunteers and supervisors of Volunteers

Who Should Read this Regulation

- All University Hiring Officials
- HR Staff
- All Supervisors
- Department Heads and Chairs
- Any staff involved in the employment process
- Volunteers and supervisors of volunteers

Regulation Background

KRS 164.281 effective July 12, 2006, requires all Kentucky public universities to complete pre-employment criminal background checks on all initial hires.

Procedures

I. Completing Application

Applicant submits and electronic application for employment through the on-line employment system. The application should be complete to include disclosure of any misdemeanor or felony convictions, other than minimal traffic violations and will state that a criminal background will be conducted and that any offer of employment will be contingent upon the receipt of a background check satisfactory to the University.

II. Conducting Background Check

EKU will use a third-party administrator to conduct background checks. EKU will require that all background checks be obtained and handled in compliance with applicable federal and state statutes, such as the Fair Credit Reporting Act. EKU reserves the right to make the sole determination concerning information or any employment decision arising out of the background check.

All criminal background checks are conducted post-offer (contingency offer). However, as part of Title VII of the Civil Rights Act, this information cannot be used as a basis for denying employment, unless it is determined to be relevant and job related.

III. Application Disclosure and Background Check Authorization

All University employment applications will require disclosure of any misdemeanor or felony convictions, other than minimal traffic violations and will state that a criminal background will be conducted and that any offer of employment will be contingent upon the receipt of a background check satisfactory with the University.

All University employment applications will state that non-disclosure or providing false or misleading information will be handled in accordance with the University policies and procedures, which may include actions up to and including termination from employment or the withdrawal of an employment offer.

The applicant must authorize the background check. This consent is given electronically as part of the application process.

IV. Offers of Employment-Background Checks

HR Staff submits electronic request, through OES, to third party vendor providing the background check when notified by hiring official that an applicant has been recommended for hire.

All offers of employment are recommended in writing and include the following statement: "This offer is contingent upon the completion of a background investigation satisfactory to the University." If circumstances require that the offer be communicated verbally, the hiring official must inform the candidate that the offer is contingent upon the successful result of the required background check.

The Office of Human Resources then initiates the process for the background check to be completed on the final candidate.

V. Evaluation of Background Check Results

The results of the criminal background check will be sent directly to the designated personnel in the Office of Human Resources.

The Human Resources Consultant will review the criminal background report. If any criminal convictions are noted, the Human Resources Consultant will notify the Office of Human Resources, who will consult with the Executive Vice President for Student Success and University Counsel as needed, for final determination on proceeding with the employment process and, if the candidate is a current employee, whether any personnel action, if any, should also be taken.

In making this determination, the following factors should be considered: the nature and type of the conviction, the length of time that has passed since the offense occurred, the relation of the crime to the job responsibilities and any evidence of rehabilitation.

For purposes of this procedure, the term "conviction" will be interpreted broadly and will include pleas of no contest, deferred adjudications, and similar dispositions. If a criminal background check report indicates pending criminal charges that, if a conviction resulted, would result in exclusion from employment, the candidate will be excluded from employment until final disposition of the charge(s).

VI. Satisfactory Results

If the criminal background check is satisfactory, the Office of Human Resources will notify the hiring official that the candidate is approved to begin employment

VII. Unsatisfactory Results

If a background check is returned with unsatisfactory results, the Office of Human Resources will notify the hiring official.

The Office of Human Resources will contact the candidate to inform him/her that ECU is rescinding its contingent offer of employment and that he/she will receive written notification that the University's third party administrator will send a summary of the candidate's rights under the Fair Credit Reporting Act.

The third part administrator will give the candidate the opportunity to review a copy of the report, which informs him/her of his/her rights to dispute inaccurate information.

Applicants with unsatisfactory background checks, or failure to fully disclose criminal background on the application, will be ineligible to reapply for a position at ECU for 6 months.

The Office of Human Resources will review any additional information provided by the candidate to dispute the accuracy of the criminal background check and, upon consultation with University Counsel, will make a determination of any action on the information.

VIII. Disqualified Applicants

A disqualified applicant for non disclosure is excluded from submitting another application for employment for one year.

Definitions

- **Applicant:**
 - A person who submits an expression of interest in employment through the internet or related electronic mean;
 - The University considers the individual for employment in a particular position;
 - The individual's expression of interest indicates that he or she meets the basic qualifications of the position; and
 - At no point during the recruitment process (prior to receiving an offer of employment) indicates that he or she no longer is interested in the position.
- **Contingent Employment Offer:** An offer of employment that is conditioned on the completion of a successful background investigation. The contingent offer will not become a final and clear offer until the background check process is complete and the hiring official is notified.

- **Falsification:** Failure to fully and accurately record required information on the employment application. Failure to disclose any misdemeanor or felony convictions, other than minimal traffic violations.
- **Hiring Official:** An authorized representative/official of the University who has the discretion to make an offer of employment to an applicant.
- **OES:** Online Employment System
- **University:** Eastern Kentucky University

Responsibilities

- Applicant Responsibility
 - Applicant is responsible for completing a comprehensive and accurate application for employment.
- Hiring Official
 - Hiring officials are responsible for reviewing applicants and determining the best qualified candidates and recommending for hire the final candidate for employment.
- HR Employment Staff
 - Submits electronic background investigation to third party background check vendor. Completes initial review of completed background checks and submits to Associate Director and/or Director those that appear to be not to be satisfactory for employment.
- Director of Human Resources
 - Reviews background check discrepancies and recommends final action on employment status.
- Office of Human Resources
 - Reviews appeals of disqualified candidates. Confirms final employment status.
- Executive Vice President for Student Success & University Counsel
 - Provides legal advice and assistance as needed regarding background investigation processes.

Violations of the Policy

Failure to fully disclose all required information on the employment application will result in exclusion of the applicant from consideration for employment for six months.

Interpreting Authority

Office of Human Resources

Statutory or Regulatory References

KRS 164.281

Policy Adoption Review and Approval

Regulation Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
July 12, 2006		Approved