

Policy 602.30

1 Introduction

1.1 Appalachian State University (the "University") is committed to providing a safe and secure environment for its students, staff, university visitors, and constituents, as well as a setting in which the University's assets are protected. To that end, it is the policy of the University that all employment offers (regardless of status as full or part-time, temporary, SHRA, EHRA Faculty, or EHRA Non-Faculty) are subject to the University's receipt of a satisfactory criminal background report, in order to facilitate informed hiring decisions.

2 Scope

2.1 This policy applies to all vacant positions of all employment categories.

3 Definitions

4 Policy and Procedure Statements

4.1 General

4.1.1 It is the policy of the University that new employees filling vacancies on or after February 1, 2010, have a criminal background check completed prior to beginning employment. An offer of employment may be extended to the final candidate of both SHRA and EHRA (Faculty and Non-Faculty) searches prior to the completion of the criminal background check; however, the offer must be explicitly contingent on receipt of a satisfactory criminal background report by University officials.

4.1.2 Criminal background reports will only be used to evaluate candidates for employment reasons, and will not be used to discriminate on any basis prohibited by law or other University policies.

4.1.3 In order to ensure consistent application of this policy, Human Resource Services ("HRS") will conduct (and/or contract with third-party vendors to conduct) criminal background checks in accordance with the Fair Credit Reporting Act and any other pertinent laws.

4.1.4 Previous criminal convictions will not automatically disqualify a candidate from employment at the University. Factors to consider include, but are not limited to:

1. the relevance of the crime or misconduct to duties and responsibilities of the selected job;
2. the nature of the crime or misconduct;
3. the time that has elapsed since the conviction or other determination;
4. the circumstances surrounding the crime or misconduct;
5. the existence, number and type of other incidents of crime or misconduct;
6. the actions and activities of the candidate since the date(s) of reported crime(s) or misconduct;
7. the rehabilitation record of the candidate;
8. any related information;
9. the honesty of the candidate in disclosing and/or explaining the crime or misconduct;

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10. any professional opinions about the possibility or likelihood of the candidate's future criminal behavior or other misconduct; and
11. explanations and/or other information provided by the candidate.

4.1.5 Background check records are considered to be part of the application document and will be maintained in the applicant's personnel file. In accordance with North Carolina law, these application documents and related materials are considered to be confidential and will not be subject to public release except as required or allowed by applicable provisions of the North Carolina State Personnel Act (N.C.G.S., Chapter 126).

4.1.6 Applicants who refuse consent to a criminal background check will be considered to have withdrawn their application for employment at the University.

4.2 Exceptions

4.2.1 Faculty and/or staff members being considered for reappointment, promotion or tenure are not subject to criminal background checks.

4.2.2 Faculty and/or staff members continuously employed prior to February 1, 2010, will not be subject to background checks.

4.2.3 Faculty and/or staff members who maintain a continuous employment relationship (as defined as lacking any formal, legal separation) with the University, with no greater than twelve (12) months break in service, will not be subject to background checks separate from the initial check completed upon hire.

4.2.4 Due to the unique nature of law enforcement work and the standards promulgated by the North Carolina Criminal Justice Education and Training Standards Commission, final candidates for positions in the University Police Department will have criminal background checks initiated by the University Police Department. These employment processes shall be administered under the supervision and review of the Chief of Police.

4.3 Procedures

4.3.1 To ensure that false or erroneous information has not been transmitted in the criminal background report, and to comply with the Fair Credit Reporting Act (FCRA), the following measures shall be taken:

1. If withdrawal of an employment offer is being contemplated on the basis of information contained in a criminal background report, the HRS Employment designee will inform the candidate of the criminal background report. The HRS Employment designee will provide the candidate preliminary notice of a possible adverse employment decision, an opportunity to contest information contained in the background report, a copy of the report, and a copy of "A Summary of Your Rights under the Fair Credit Reporting Act." The notice and enclosures will be sent via certified mail, return receipt requested.
2. The HRS Employment designee and/or hiring division representative will wait five (5) business days from the date the return receipt is signed, or ten (10) business days from the date the notice and other materials are mailed, if the return receipt is not signed, before making an employment decision.
3. If it is determined that a candidate will not be extended an offer of employment or that an offer will be withdrawn, the hiring authority will be notified of the decision and asked to select another final candidate. If a conditional offer of employment has been extended, the HRS Employment designee will notify the candidate that the offer of employment is withdrawn. This notification must be sent certified mail, return receipt requested, and contain the following information:

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1. The name, address, and phone number of the Consumer Reporting Agency (?CRA?) that provided the report, including a toll-free telephone number if the CRA compiles and maintains files on consumers on a nationwide basis.
2. A statement that the CRA did not make the adverse decision and is unable to give specific reasons why the adverse decision was made.
3. Notification that the applicant has the right to:
 1. Obtain a free copy of the criminal background report
 2. Dispute the accuracy or completeness of any information in the report.

5 Additional References

6 Authority

Fair Credit Reporting Act (15 U.S.C. 1681, et seq.)

7 Contact Information

Director of Human Resource Services: 828-262-3186

8 Original Effective Date

September 25, 2009

9 Revision Dates

March 25, 2010