

Criminal Background Reports

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, 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 are subject to the University’s receipt of a satisfactory criminal history report, in order to facilitate informed hiring decisions.

2 Scope

2.1 This policy applies to all vacant positions of all employment categories, including but not limited to positions for School Personnel at any Laboratory School operated by the University.

2.2 The University reserves the right to apply this policy to employees of independent contractors when, in the University’s sole discretion, receipt of a satisfactory criminal history report for such individuals is deemed necessary to provide a safe and secure environment for the University’s students, staff, visitors, and constituents, or to provide a setting in which the University’s assets are protected.

3 Definitions

3.1 “HR”

means the Office of Human Resources of Appalachian State University.

3.2 “Laboratory School” or “Lab School”

means a public school established and operated pursuant to N.C.G.S. Chapter 116, Article 29A, as it may be amended from time to time.

3.3 “Laboratory School Personnel”

has the same meaning as “School Personnel” set forth at N.C.G.S. 116-239.12(a)(2), as it may be amended from time to time:

1. Member of the Laboratory School Advisory Board, as defined in N.C.G.S. 116-239.8(b)(1), as it may be amended from time to time.
2. Staff of the Laboratory School.
3. Independent contractor or employee of an independent contractor of the Laboratory School if the independent contractor carries out duties customarily performed by school personnel, whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of the Laboratory School.

3.4 “University”

means Appalachian State University.

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 history check completed prior to beginning employment. An offer of employment may be extended to a candidate for employment prior to the completion of the criminal history report; however, the offer must be explicitly contingent on receipt of a satisfactory criminal history report by the University.

4.1.2 Criminal history reports will only be used to evaluate candidates for employment eligibility, 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, HR will conduct (and/or contract with third-party vendors to conduct) criminal history 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 considered in determining eligibility for employment 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;
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 Any pending criminal charges that may affect a candidate's employment eligibility must be resolved before the candidate can be considered for employment with the University.

4.1.6 Criminal history 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 Human Resources Act (N.C.G.S., Chapter 126).

4.1.7 Applicants who refuse consent to a criminal history 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 history checks.

4.2.2 Faculty and/or staff members continuously employed prior to February 1, 2010, will not be subject to criminal history checks, unless required by state or federal law.

4.2.3 Faculty and/or staff members who maintain a continuous employment relationship (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 criminal history 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 history checks initiated by the University Police Department. These employment processes shall be administered under the supervision and review of the Chief of Police.

4.2.5 International employees who have been screened by the U.S. Department of Homeland Security and awarded a legal work visa are not subject to criminal history checks.

4.3 Procedures

4.3.1 To ensure that false or erroneous information has not been transmitted in the criminal history 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 history report, HR 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."
2. HR will provide the candidate five (5) business days to reply to the preliminary notice before making an employment decision. A candidate may be provided additional time at the discretion of HR as may be necessary to contest potentially incorrect information in a criminal history report.
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, HR will notify the candidate that the offer of employment is withdrawn. This notification must include

the following information:

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.

4.4 North Carolina Laboratory School

4.4.1 Notwithstanding any other provision of this policy to the contrary, all Laboratory School Personnel shall be subject to criminal history record checks as provided in N.C.G.S. 116-239.12, as it may be amended from time to time.

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

December 14, 2018