

# Employment-Related Background Checks, Criminal Activity Reporting, and Applicant Salary History

**Version 3 (Current Version)**

 Print

<b>Policy</b>	POL06.25.04
<b>Title</b>	Employment-Related Background Checks, Criminal Activity Reporting, and Applicant Salary History
<b>Category</b>	Personnel
<b>Sub-category</b>	Conditions of Employment
<b>Authority</b>	Board of Trustees
<b>History</b>	December 11, 2000, amended April 18, 2008, effective July 1, 2008, amended February 12, 2022, amended December 12, 2022.
<b>Contact</b>	<p>Director of Employment and Clinical Support Services, Department of Human Resources Phone: 252.328.9847 or 252.328.9897</p> <p>Director of Employee Relations, Department of Human Resources Phone: 252.328.9844</p>
<b>Related Policies</b>	<p>ECU Programs Serving Minors (<a href="https://policy.ecu.edu/01/15/13">https://policy.ecu.edu/01/15/13</a>)</p> <p>Notice of Nondiscrimination and Affirmative Action Policy (<a href="https://policy.ecu.edu/05/25/02">https://policy.ecu.edu/05/25/02</a>)</p> <p>Volunteer Regulation (<a href="https://policy.ecu.edu/06/05/03">https://policy.ecu.edu/06/05/03</a>)</p> <p>Illegal Drugs and Substance Abuse - Interim (<a href="https://policy.ecu.edu/05/20/10">https://policy.ecu.edu/05/20/10</a>)</p> <p>UNC Policy Manual 300.8.7 Regulation on Pre-Employment Background Checks (<a href="https://www.northcarolina.edu/apps/policy/doc.php?id=3022">https://www.northcarolina.edu/apps/policy/doc.php?id=3022</a>)</p>
<b>Additional References</b>	<p>ECU Data Governance Regulation (<a href="https://policy.ecu.edu/06/25/03">https://policy.ecu.edu/06/25/03</a> )</p> <p>Criminal Background Checks Standard Operating Procedure (SOP) (<a href="https://cdn.ecu.edu/docs/prr-uploaded-docs/SOP_CBC_MVR_Final.pdf">/cdn.ecu.edu/docs/prr-uploaded-docs/SOP_CBC MVR_Final.pdf</a>)</p>

## 1. Introduction

1.1. The East Carolina University (hereinafter ECU or University) Employment-Related Background Checks,

Criminal Activity Reporting, and Applicant Salary History Policy seeks to promote a safe learning and work environment for students, staff, faculty, and visitors. Background checks will be used to evaluate prospective or current employees for employment purposes and will not be used to discriminate on the basis of any of the Protected Classes as outlined in the University's Notice of Nondiscrimination and Affirmative Action Policy. Employment decisions must be solely job related to the position in question and consistent with business necessity.

## 2. Scope

2.1. ECU will conduct background checks on any applicant for employment with the University who has also been selected as a final candidate for a position, as well as current employees who change positions; employees holding designated sensitive positions; all employees subject to the State Human Resources Act (SHRA); Clinical Support Services (CSS) employees; employees exempt from the State Human Resources Act (EHRA) including faculty (including adjunct and affiliate) and non-faculty; Senior Academic and Administrative Officers (SAAO); and temporary employees, including student employees, or post-doctoral positions at ECU. Additionally, due to the job responsibilities and their access to sensitive information, the ECU Police department conducts comprehensive background checks on its positions and coordinates with Human Resources to ensure compliance with ECU, UNC System Office, and Office of State Human Resources standards.

## 3. Definitions

3.1. "Covered Individual" means any finalist for employment or current employee employed by the University in a permanent, temporary, or time-limited EHRA faculty and non-faculty, SAAO, SHRA, CSS, or post-doctoral position.

3.2. "Charge" means an accusation of a crime by a formal complaint, information, or indictment.

3.3. "Conviction" means a guilty verdict, guilty plea, or a "no contest," nolo contendere, or Alford plea, or any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution.

3.3.1. For Employees who drive a dedicated State or University vehicle as part of their job, or to whom a State vehicle is provided to for the purposes of conducting University business, suspension or loss of driving privileges will also be considered a Conviction for purposes of this regulation.

3.4. Minor traffic violation means any moving violations or moving infractions.

3.5. "Positions with Sensitive Duties" are positions identified by the Human Resources Department in conjunction with the unit, with the following duties, including:

3.5.1. Direct responsibility for the care, safety, and security of vulnerable populations.

3.5.2. Direct access to or responsibility for cash and cash equivalents, credit card information, University property disbursements or receipts, or extensive authority for committing the financial resources of the University.

3.5.3. Direct access to or responsibility for controlled substances, select agents, or hazardous materials.

3.5.4. Master key and/or badge access to buildings, residence halls or other secure facilities.

3.5.5. Direct access to, or responsibility for, information or areas designated by the University as safety or security sensitive.

3.5.6. Direct access to sensitive information/data classified as level 3 or level 4 data classification in accordance with University data governance.

3.5.7. Any other position deemed sensitive by the University due to the nature of the duties of the position.

## 4. Covered Individuals

4.1. Any finalist for selection and employment for all EHRA faculty and non-faculty, SHRA, CSS, SAAO, and post-doctoral positions, as well as finalists for all temporary appointments, including students, are subject to background checks.

4.2 University employees who change positions due to promotion, lateral transfer, or reassignment are subject to background checks. Current employees who assume new duties that cause the current position to become appropriate for background checks, such as assuming sensitive duties, are also subject to background checks at the time of the assumption of these duties.

4.3 University employees who are convicted of a criminal offense (other than a minor traffic violation), must report any conviction to their immediate supervisor within five (5) calendar days of the conviction. Upon report of a criminal conviction, employees will undergo a background check. The immediate supervisor shall notify the Employee Relations unit in Human Resources (HR) within five (5) business-days of receiving notice of a conviction in order to initiate the required background check.

4.4 Any other individual deemed necessary by the Human Resources Department.

## 5. Scope and Types of Background Checks

5.1. Criminal history, and sex offender checks will be conducted on all covered individuals in accordance with the procedure applicable to the individual's position designation. All background checks must include, at a minimum, federal criminal history, applicable criminal history for all local and state jurisdictions in which an individual has previously lived within the time period of the check, the national sex offender registry, and, for designated positions, a federal System for Award Management (SAM) and Office of Inspector General debarment check. The check should include a good faith attempt to identify any omissions by the candidate with respect to prior residences during the time period being checked. Certain University programs may have additional or more stringent requirements for background checks than those provided by this Regulation.

5.1.1 All background checks must cover a time period of no fewer than seven years as of the date of the check, when available within the relevant jurisdictions, or until age 18 if the applicant is younger than 25 years old, or as required by external, affiliated programs.

5.2 A criminal conviction does not necessarily eliminate a prospective or current employee from consideration for employment with the University. Each conviction will be reviewed, as outlined in the Criminal Background Checks Standard Operating Procedure (SOP), with respect to the nature of the offense, the surrounding circumstances, seriousness, the amount of time since the conviction, and the relevance of the conviction to the position. In addition, an applicant's criminal history will be considered in accordance with the U.S. Equal Employment Opportunity Commission's Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act, and any guidance provided by the North Carolina Office of State Human Resources (OSHR). Elimination from consideration for employment or termination should not be based on a candidate's expunged or pardoned convictions; pending charges; arrests not resulting in a conviction; or charges resulting in dismissal or not guilty.. However, separate and apart from a specific judicial status or disposition, the institution may consider a candidate's documented conduct incidental to an arrest (including matters that remain pending) if the conduct is demonstrably related to the position's responsibilities or access to institutional resources, and an employment decision may be based on the conduct underlying an arrest if the conduct makes the individual unfit for the position in question.

5.3 The discovery of falsification of criminal history or activity, including misrepresentation or failure to disclose relevant information as part of the recruitment and application process, will disqualify a candidate from employment consideration and may result in termination from employment.

5.4 Employees of the University are employees of the State of North Carolina and, as such, are expected to adhere to all federal and state laws both in the workplace and in the community. A Conviction for an Unlawful Offense may be considered unacceptable personal conduct for staff (specifically, conduct unbecoming a State employee that is detrimental to State service); ; misconduct of such a nature as to indicate that the individual is

unfit to continue as a member of the faculty; or misconduct that interferes with the capacity of the employee to perform effectively the requirement of his or her employment for a NF-EHRA employee and, accordingly, may result in disciplinary action up to and including separation from University employment.

5.4.1 Convictions for an Unlawful Offense that do not result in separation from University employment may be reconsidered in the event the Employee takes on additional duties or apply for other position(s) within the University.

5.4.2 If an Employee receives a Charge for an Unlawful Offense, the totality of the circumstances surrounding the Charge may be sufficient to be considered unacceptable personal conduct for staff; misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty; or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment for a NF-EHRA employee, and, accordingly, may result in disciplinary action up to and including separation from University employment.

5.5 Exceptions- Background checks are not required in the following circumstances:

5.5.1 Faculty members under consideration for reappointment, or subsequent appointment, promotion to a new Faculty rank or title, or the conferral of permanent tenure;

5.5.2 Invited guest speakers, guest lecturers, or guest instructors having no Direct Contact as defined in the ECU Programs Serving Minors regulation and whose interactions with minors or other vulnerable populations is always supervised by or in the presence of a University employee;

5.5.3 For the Early College High School, public school teachers do not require background checks if an adequate background check is required, and completed, by their respective local education agency.

5.6 Motor Vehicle Checks (MVR). Motor vehicle checks will be conducted on the final candidate(s) for any position(s) that require the individual to drive a State or University vehicle as a regular part of their job responsibilities or when a dedicated vehicle is provided to the employee for the purpose of conducting University business. MVR will be conducted in accordance with the Standard Operating Procedure (SOP) for MVR implemented with this Regulation.

## 6. Procedure

6.1 HR will process and obtain background checks required by this regulation, using a Professional Background Screening Association (PBSA) accredited vendor. No candidate may commence work until the background check is completed and deemed satisfactory by the University.

6.1.1. In limited emergency hiring situation—such as filling a vacancy to perform critical work or to ensure campus safety—the Associate Vice Chancellor for Human Resources, or designee, in consultation with the Vice Chancellor of the applicable division for the position, may make an exception and allow an employee to begin work prior to completion of the background check.

6.1.2 In such cases where an exception is made for a candidate to commence employment, the offer and appointment letter shall state that both the offer and continued employment are contingent on the return of a background check which is deemed satisfactory by the University, through the Department of Human Resources.

6.2 Procedures for applicable background checks are provided by the Standard Operating Procedure (SOP) implemented with this Regulation. Specifically, the Criminal Background Checks SOP shall be followed for employment hires and events covered by this regulation.

6.3 The Department of Human Resources will receive and review the results of the background check to determine whether the results are satisfactory to the University. This review will be completed consistent with the applicable SOP and with input from other campus units, such as the Office of University Counsel and/or Campus Police, as needed.

6.4 Violations of this Policy, including failure to consent to any background checks required by this Policy, may result in the failure to meet the contingencies of the appointment and/or disciplinary action in accordance with the policies and procedures applicable to the Employee's position designation.

6.5 The associated SOPs are subject to periodic updates. Any such revisions to the SOPs will be conducted in consultation with the Office of University Counsel.

## 7. Confidentiality and Retention of Background Checks

7.1 Employment-related background check records are considered to be part of an Employee's confidential personnel file and are not subject to public release except as required or allowed under applicable provisions of state law NCGS §126-22 ([https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_126/GS\\_126-23.html](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_126/GS_126-23.html)). Background check records generated under this Policy will be maintained in accordance with University Policy.

## 8. VII. Prohibition on Use of Salary History for Hiring Actions

8.1. An applicant's salary history shall not be requested on the employment application or as part of any supporting documentation provided in the application process.

8.2. The selected candidate's salary history shall not be used to determine the candidate's salary for any hiring action, including new hires, transfers, and promotions. Rather, salary determinations shall be based on other relevant factors including, but not limited to, the salary range of the proposed position, the qualifications and credentials of the candidate, equity to other similarly situated and qualified employees, and available budget.

8.3. Only the factors listed in 8.2 above will be utilized and current salary information of state employees who apply for other positions, even though such current salary information is publicly available will not be utilized.

8.4. UNC Laboratory (Lab) Schools as defined by State law, NCGS §116-239.5 ([https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_116/Article\\_29A.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_116/Article_29A.pdf)) et seq., may be exempted from this requirement when hiring teachers, school administrators, and non-teaching positions if the Lab School has elected to follow the State Salary Schedules developed specifically for public school employees and published by the Department of Public Instruction (DPI). For the purposes of determining a starting salary, the Lab School may ask the prospective employee and/or the employee's current employing unit to verify the employee's current DPI salary step.

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### East Carolina University

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