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| Name of Policy: <u>Criminal background check.</u> Policy Number: 3364-25-47 Approving Officer: President Responsible Agent: Associate Vice President and Chief Human Resources Officer Scope: Final candidates hired or rehired for faculty, staff, contingent, temporary, resident, volunteer, and select graduate and undergraduate student positions as part of the hiring process on all campuses, The University of Toledo | |  Review date: August 10, 2017 Original effective date: May 23, 2011 | |
| | New policy proposal | | Minor/technical revision of existing policy |
| X | Major revision of existing policy | | Reaffirmation of existing policy |

(A) Purpose of policy

The University of Toledo is committed to providing a safe and secure environment for its faculty, staff, residents, students, volunteers, patients and visitors. The university will take reasonable steps to ensure hiring decisions effectively contribute to lessening unnecessary risk in support of its academic, clinical, and research mission.

(B) Policy statement

The University of Toledo will conduct criminal background checks on all final candidates hired or rehired for faculty, staff, contingent, temporary, resident, volunteer, and select graduate and undergraduate student employment positions as part of the hiring process. Criminal background checks will be conducted to support the university’s mission and to achieve the goal of providing a safe and secure environment.

(C) Regulations

(1) Background checks will be conducted for:

- (a) All non-student appointees and final candidates under consideration for regular full-time / part-time faculty, staff, residents, temporary, and/or contingent positions.
- (b) All volunteers and students that are final candidates for positions that involve security sensitive responsibilities including but not limited to, the following:

- (i) Responsibility for care of children or minors, such as child care workers, camp counselors, etc. in compliance with all applicable laws, regulations and standards.
 - (ii) Care of patients in health care settings such as hospitals, dental clinics, clinics, mental health facilities, etc in compliance with all applicable laws, regulations and standards.
 - (iii) Access to “select agents and toxins,” or “controlled substances” as defined under state and federal law.
 - (iv) Access to master keys, electronic access, or key access to residences and areas requiring a high level of security, such as those that store controlled substances or money, research facilities, etc
 - (v) Entrustment of university vehicles when proof of a valid driver’s license is a job requirement.
 - (vi) Students hired into supervisory, resident hall, or teaching responsibilities involving unsupervised, direct contact with students.
 - (vii) Public safety enforcement support
 - (viii) Access to student/employee personally identifiable information including but not limited to access to the Human Resources Information System.
 - (ix) Handling of financial matters; can be limited to those positions with approval authority or access above a set dollar amount.
- (c) When an employee has been removed/separated/terminated from employment and is offered a position/rehired regardless of length of time off the system. Exceptions to this requirement include part-time Faculty and Student employees, including graduate assistants, with access to restricted institutional data. These employees are required to have a background check upon return if the break in service is more than twelve (12) months.
- (d) When employees are subject to motor vehicle driver history checks to ensure that their licenses are current and/or without excessive violations.
- (e) When the appointing authority learns of a final conviction or a misdemeanor, felony or other offense of moral turpitude that adversely affects the ability to perform the job or has an adverse effect on the university if employment is continued; or
- (f) When required by federal law, Ohio Revised Code laws, administrative policy statements, or the University of Toledo policy.

(2) Types of background checks conducted may include:

- (a) Criminal Records – County Criminal Felony & misdemeanor, State Criminal Felony & Misdemeanor in each place an applicant resided.
- (b) National Sexual Offender Registry Search - where required by any state or federal law or agency regulations or rules.

- (c) Fingerprint background checks – where required by any state or federal law or agency regulations or rules.
 - (i) A criminal records check may be conducted by the Bureau of Criminal Identification and Investigation (BCII) and, if the prospective employee does not demonstrate Ohio residency for the proceeding 5 years, by the Federal Bureau of Investigation (FBI) on all employees, volunteers and student interns serving children or adolescents in the outpatient behavioral health setting.
- (3) All offers are contingent upon successful completion of the background check. All offers of employment, oral or written, must include a statement as follows: “This offer is contingent on the university’s verification of credentials and other information required by law and/or university policies including but not limited to a criminal background check.”
- (4) The university may refuse to hire the finalist or may rescind an offer of employment to a finalist that has not successfully completed the background check process.
- (5) The background Authorization To Release Information form must be used for any background check performed by a third party vendor.

(D) Assessment of criminal background check information

- (1) Background checks will be assessed on the relevancy of the candidate’s criminal history to the position the candidate is seeking using the following principles:
 - (a) Only convictions will be taken into account when reviewing a final candidate’s criminal history. An arrest without a conviction in a closed case will not be considered. Expunged records must not be considered when making a determination of a candidate’s eligibility.
 - (b) Open criminal cases may preclude a final candidate from eligibility for employment depending on the relevancy of the charge to the job responsibilities.
 - (c) Negative information will be evaluated by considering factors such as
 - (i) The nature of the criminal act
 - (ii) The frequency of the criminal acts
 - (iii) The time since the last conviction
 - (iv) The time between convictions
 - (v) The relevancy to the job

(d) Any prospective employee, volunteer or student intern serving children or adolescents in the outpatient behavioral health setting shall not have pleaded guilty to

or been convicted of any of the offenses listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code. Any prospective employee, adult volunteer or student intern serving children or adolescents in the outpatient behavioral health setting convicted of or who has pled guilty to an offense listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code may be hired by a provider if the conditions as provided in paragraph (H) of rule 5101:2-5-09 of the Administrative Code have been met.

(E) Adverse Action Notification procedures as required under the Fair Credit Reporting Act (FCRA) – in order to comply with the federal statutory requirements under FCRA, the following two (2) letters will be sent out to applicants when any information contained in the background investigation report could result in the withdrawal of the conditional offer of employment.

- (1) 1st Adverse Action Notice letter – this letter will be sent out immediately along with two attachments (1) copy of the background report and (2) a copy of the Summary of Your Rights Under the Fair Credit Reporting Act. Candidate will be allowed to explain the results and provide clarifying information within five business days from date of letter.
- (2) After review of the supplemental information submitted by the candidate, the final decision to withdraw the conditional offer of employment will be made by Human Resources/Provost/Faculty Affairs in consultation with the University's Legal Counsel and/or the University of Toledo Police Department as needed and in accordance with the provisions of this policy. This decision will be based in whole or in part on the adverse information received.
- (3) 2nd Adverse Action Notice letter – this letter will be sent out if the final decision is to withdraw the conditional offer of employment along with a copy of the Summary of Your Rights Under the Fair Credit Reporting Act.

(F) Background Check Records

- (1) Candidates not hired due to information revealed on a criminal background check conducted by a third party vendor, must be provided with a copy of the results and the name and contact information of the agency used. Candidates must also be informed that the University made the decision not the agency. Candidates will be informed of their rights to dispute information contained in the report and the right to require an additional free copy of the report within 60 days.
- (2) To the extent possible, all information received in connection with the criminal background check process will be treated as confidential except when disclosure is necessary.
- (3) For information pertaining to the retention of criminal background check results refer to the University Archive Records Retention schedule.

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| <p>Approved by:</p> <p><u>/s/</u> Sharon L. Gaber, Ph.D. President</p> <p><u>August 10, 2017</u> Date</p> <p><i>Review/Revision Completed by:</i> Associate Vice President and Chief Human Resource Officer</p> | <p>Policies Superseded by This Policy:</p> <ul style="list-style-type: none">• <i>Previous 3364-25-47, effective date May 23, 2011</i> <p>Initial effective date: May 23, 2011 Review/Revision Date: July 1, 2014; April 10, 2015, August 10, 2017 Next review date: August 10, 2020</p> |
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