



CODE OF PRACTICE BACKGROUND VERIFICATIONS

Office of Human Resources Management

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I. DEFINITIONS

a. BACKGROUND VERIFICATION REQUIREMENT

The City University of New York and the constituent colleges and units of the University (hereinafter collectively referred to as the “University”) are required to recruit, employ, retain, and promote employees in a manner that promotes a safe and secure environment for its students, faculty, staff, and other members of the University community, and that protects the University’s assets and resources. In order to verify employability, candidates for employment, and in certain instances current employees, are required to submit to a Background Verification.

b. COMPONENTS OF BACKGROUND VERIFICATION

A background verification may be comprised of one or more of the following checks:

- **Social Security Number Trace:** Verification of social security number (to verify validity and identity and confirmation of official address for tax withholding/reporting purposes).
- **E-Verify:** Confirmation of employment eligibility.
- **Academic/Education Credentials Confirmation:** Confirmation of academic/education credentials.
- **Research and Scholarly Activity Verification:** Confirmation of stated research and scholarly activities (for Chancellery, Presidents and Staff in the Executive Compensation Plan with responsibilities over academic areas and faculty and research positions).
- **Credential and Licensing Verification:** Confirmation of possession of credential or license required for the position.
- **Employment History Verification:** Confirmation of applicant’s pertinent employment history.
- **Professional Reference Check:** Contact with provided references to review information about the applicant’s knowledge, skills, abilities and character. In addition, others who may know the Applicant may be contacted.
- **Criminal History Search:** A criminal history search includes a federal and state criminal history search, a national sex offender search, and an Office of Foreign Assets Control (OFAC) watch list scan, as appropriate.
- **Credit History Report:** A report that may include the following types of information: identification and employment information (*e.g.*, name, birth date, social security number, employer, and spouse's name, employment history, home ownership, income, and previous address), payment history (*e.g.*, accounts with different creditors, showing how much credit has been extended and whether payment was timely, and related matters, such as whether an overdue account was submitted to a collection agency), inquiries (*e.g.*, a record of all creditors who have asked for the candidate’s credit history within the past year and a record of individuals or businesses that have asked for the candidate’s credit history for employment purposes for the past two years), and public record information (*e.g.*, bankruptcies, foreclosures, or tax liens).
- **Motor Vehicle Report:** A record of the candidate’s driving record and driver’s license status.
- **Medical Tests and/or Medical Certification:** Physical health certification as qualification for the position.
- **Drug Screening:** Analysis of a urine specimen for controlled substances.
- **Physical Agility, Oral and Written Psychological Screening:** Pre-employment tests for Campus Peace Officer title.

c. CANDIDATE

A candidate is an individual to whom a conditional offer of employment has been made.

- The term covers all individuals who are not currently employed by the University.

- It covers current employees who have received a conditional offer of employment in a classified staff title, or in a position with significant fiscal responsibility.

- It applies to current employees who are scheduled to be appointed or reclassified to positions identified as requiring an enhanced background investigation.

- The term also includes current employees who are scheduled for appointment in an interim or acting title of Assistant Vice President/Dean/Administrator and above in the Executive Compensation Plan.

- It also applies to current employees scheduled to assume substitute appointments in positions with significant fiscal responsibility, and those assigned teaching or non-teaching duties in programs serving minors.

II. OVERVIEW

The University will perform background verifications on candidates who have received a conditional offer of employment for full-time and part-time employment.

Candidates for whom the University has conducted a background verification within the last 12 months shall not be required to submit to another background verification.

Offers of employment shall be conditional, pending the result of all verifications.

CUNY will comply with all applicable laws related to the use of criminal history in making employment decisions.

III. ROLES AND RESPONSIBILITIES

Hiring Department:

The hiring department will be responsible for performing professional reference checks and research and scholarly activity checks and coordinate its findings with the Office of Human Resources.

Human Resources:

College Human Resources will initiate the verifications for all candidates for employment pertaining to

- Employment Eligibility (E-Verify may be used for this purpose)
- Academic/Educational Credentials Confirmation (DegreeVerify may be used for this purpose)
- Credential and Licensing Verification
- Employment History Verification

Vendor:

The University will engage a vendor who will provide Social Security Number Trace (Social Security Number and Address verification), criminal history, credit check and motor vehicle reports, as needed.

Currently, the University uses the Department of Criminal Justice Services for fingerprinting and background verification reports for candidates for Classified Civil Service positions and a vendor for drug screening.

IV. BACKGROUND VERIFICATION REQUIREMENTS BY TITLE/FUNCTION

a) Basic Verification Requirements for All Candidates for Full-time Employment

The following verifications are required for all candidates for full-time employment and will be undertaken by Human Resources, the hiring department, or by the vendor:

- Social Security Number Trace (may be done by vendor)
- Employment Eligibility (E-Verify may be used)
- Academic/Educational Credentials Confirmation (DegreeVerify may be used)
- Employment History Verification
- Professional Reference Checks

b) Specific Verification Requirements for Some Candidates for Full-Time Employment

In addition, the following verifications are required based upon the candidate's title or function and will be undertaken by Human Resources or the hiring department:

- **Credential and Licensing Verification:** As examples, a candidate selected to serve as an attorney for the University is required to possess a JD degree or the equivalent and be licensed to practice law in New York; a Motor Vehicle Operator must possess a valid driver's license, and a Psychological Counselor must possess a license for mental health counseling.
- **Research and Scholarly Activity Verification:** For Chancellery, Presidents and Staff in the Executive Compensation Plan with responsibilities over academic areas as well as for faculty and research positions, based on the curriculum vitae/resume submitted by the candidate.

c) Enhanced Background Verification for Some Candidates with a conditional offer for Full-Time Employment

Criminal History Check: A criminal history check will be required for

- 1) candidates in Civil Service titles hired from civil service lists or from searches
- 2) candidates for employment in the child care centers
- 3) candidates for coach and assistant coach positions in the Athletics Department
- 4) candidates for positions as Chancellor, Executive Vice Chancellor, Senior Vice Chancellor, Vice Chancellor, Associate Vice Chancellor, President, Senior Vice President, Vice President and Assistant Vice President/Dean/Administrator
- 5) candidates for positions with significant fiscal responsibility and/or authority to commit financial resources of the University, including but not limited to, execution or approval of financial transactions
- 6) candidates for positions that are involved in handling of the receipt of or disbursement of funds. This may include but is not limited to staff in the college bursar's offices and the University Treasurer's office.

- 7) candidates for positions with teaching or non-teaching duties in programs serving minors¹

For candidates for positions in #1, the College conducts the criminal history check using fingerprinting in accordance with the CUNY Civil Service regulations, and for candidates in #2, the College conducts the criminal history check using fingerprinting, in accordance with the New York City Health Code and other legal mandates. The reports are limited to New York State.

For candidates for positions described in #3, # 6 and #7, the College will utilize a contracted vendor to conduct the criminal history check using national databases.

Credit History Check: A credit history check is required for candidates for positions with significant fiscal responsibility and /or authority to commit financial resources of the University, including but not limited to execution or approval of financial agreements and transactions valued at \$10,000 or more. These titles include Chancellor, Executive Vice Chancellor, Senior Vice Chancellor, Vice Chancellor, Associate Vice Chancellor, University Dean/Administrator, President, Senior Vice President, Vice President, Assistant Vice President/Dean/Administrator, and any other titles/positions, as identified.

Motor Vehicle Report: A record of the candidate's driving record and driver's license status is required for positions requiring a valid driver's license and for any candidate who will be routinely driving a University-owned vehicle, such as some members of the Executive Compensation Plan, some members of the Classified Managerial Staff, persons in the Campus Peace Officer, Campus Public Safety Sergeant, Campus Security Assistant and Motor Vehicle Operator titles and persons appointed in the coach and assistant coach titles.

Medical Tests: Individuals in the titles of Campus Peace Officer, Campus Security Assistant and Motor Vehicle Operator are required to undergo medical tests to ensure that they are qualified for the position.

Medical Certification: Individuals in the titles of Custodial Assistants and Laborers are required to provide a medical certification from a licensed physician to ensure that they are qualified for the position.

Drug Screening: Individuals in the titles of Campus Public Safety Sergeant, Campus Security Assistant, Campus Peace Officer, Motor Vehicle Operator and positions requiring a CDL, Class A and B are required to undergo a pre-employment drug screening.

d) Basic Verification Requirements for All Candidates for Part-Time/Hourly Employment

The following verifications are required for all part-time/hourly employees and will be conducted by Human Resources, the hiring department or by the vendor:

- Social Security Number Trace (may be done by vendor)
- Employment Eligibility (E-Verify may be used)
- Academic/Educational Credentials Confirmation (DegreeVerify may be used)
- Employment History Verification

¹ Persons who have been fingerprinted in their current position, outside the University, may be exempt from a criminal history check.

- Professional Reference Checks

e) Specific Verification Requirements for Some Candidates for Part-Time/Hourly Employment

In addition, the following verification is required based upon the candidate's title or function and will be undertaken by Human Resources or the hiring department:

- **Credential and Licensing Verification**, if required for the title or function. Examples include Classified titles such as the High Pressure Plant Tender, Stationary Engineer.

f) Enhanced Background Investigation for Some Candidates with a conditional offer for Part-Time Employment

Criminal History Check: A criminal history search will be required for

- 1) part-time civil service candidates, except for college assistants who are full-time students at the same college and who may be excused²
- 2) candidates for employment in the child care centers
- 3) candidates for coach and assistant coach positions in the Athletics Department
- 4) candidates for positions with significant fiscal responsibility and /or authority to commit financial resources of the University, including but not limited to, execution or approval of financial transactions
- 5) candidates for positions that are involved in handling of the receipt of or disbursement of funds. This may include but is not limited to staff in the college bursar's offices and the University Treasurer's office.
- 6) for candidates for teaching or non-teaching duties in programs serving minors³

For candidates for positions in #1 and #2 above, the College conducts the criminal history check using fingerprinting, in compliance with Civil Service regulations. The reports are limited to New York State.

For candidates for positions described in #3, #5 and #6, the College will utilize a contracted vendor to conduct the criminal history check using national databases.

Credit History Check:

A credit history check is required for candidates for positions with significant fiscal responsibility and /or authority to commit financial resources of the University, including but not limited to execution or approval of financial agreements and transactions valued at \$10,000 or more.

Motor Vehicle Report: A check of the candidate's current status of the driving license and driving history is required for positions requiring a valid driver's license and for any candidate

² Colleges are reminded that they should review the duties assigned to College Assistants who are full-time students and Student Aides to determine whether the assignment is appropriate to a student. CUNY Civil Service Regulations – Section 3.1.3: Applications for Eligibility Determination (g) states that all employees in the classified service regardless of number of hours worked shall be fingerprinted the first time the employee is placed on a CUNY payroll, except for student aides and for full-time students in the same college, who are employed as college assistants and who the College Appointing Officer, **based on duties, wishes to excuse from this requirement**. Exceptions for other student aides or college assistants require the approval of the Director. A fee for fingerprinting will be assessed, as provided for in policies of the Vice Chancellor. This exception for full-time student College Assistants is not necessarily universal; it may depend on the employee's assignment, in which duties and tasks include sensitive access to personnel information, IT resources, and finances.

³ Persons who have been fingerprinted in their current position, outside the University, may be exempt from a criminal history check.

who will be routinely driving a University-owned vehicle, such as part-time coach and part-time assistant_coach.

Medical Certification: Positions in the titles of hourly Custodial Assistants will be required to provide a medical certification from a licensed physician.

Drug Screening: Positions in the titles of hourly Campus Security Assistants require a pre-employment drug screening.

V. Maintenance of Background Verification Reports

Authorization forms for background investigations shall be placed in the personnel file of the employee and maintained in accordance with University's Record Retention Guidelines.

Background verification reports shall be delivered directly to the Office of Human Resources by the Vendor. The report will remain with Office of Human Resources until the determination on employment eligibility has been made and then stored separately from any employee personnel files, as a confidential file. Copies or content of background verification reports may not be shared with the hiring department.

Except as may be required by law, the Office of Human Resources shall not release the background reports to any person.

IMPLEMENTATION OF BACKGROUND VERIFICATION

Requirements and Process for Conducting Enhanced Background Verifications

- 1) Conditional offers of employment (job offer letters) for all positions will include the following statement: *"This offer of employment is conditional upon satisfactory completion of all verifications including but not limited to confirmation of academic and professional credentials, necessary employment and background checks, fiscal ability and the approval by the CUNY Board of Trustees"*.
- 2) No background verification will be conducted without the prior written consent of the candidate. Refusal to consent to the background investigation will eliminate that candidate from further consideration for employment.
- 3) The candidate will submit confidential background information (criminal history) using the CUNY Employment Application – Part 2. This form will be submitted to the Director of Human Resources.
- 4) For individuals who will be subject to the enhanced background criminal history verification, HR will follow the process for initiating the background verification through the vendor agency.
- 5) Any adverse information about criminal convictions in the CUNY Employment Application Form – Part 2 and, if applicable, the criminal background report will be discussed with the Chief Diversity Officer, Legal Counsel and Labor Designee, as appropriate and before any adverse action is taken, the Office of the General Counsel should be consulted.
- 6) Before any adverse action is taken, CUNY will

- furnish a written copy of the criminal history inquiry to the candidate
 - Using the CUNY Fair Chance Act Notice of Criminal History Review – Article 23-A Evaluation Form, provide a written analysis of the Corrections Law Article 23-A factors to the candidate, together with supporting documents which formed the basis for an adverse action and reasons for the adverse action; and
 - after providing the candidate with the required documentation, allow him or her at least three business days to respond and, during that time, hold the position open for the candidate.
- 7) For titles for which a credit history check is being initiated:
- Pursuant to federal and state law, before the Director of Human Resources obtains a consumer history report, he or she must provide the candidate with a Disclosure Statement, notifying the candidate that the College intends to obtain a consumer report on the individual for employment purposes. The “Summary of Your Rights Under the Fair Credit Reporting Act” and a copy of Article 23-A of the New York State Corrections Law must be attached to the Disclosure Statement. The Director of Human Resources must also obtain the candidate’s written authorization to obtain the report.⁴
 - Before the consumer reporting agency provides the report to the college, the Director of Human Resources must certify to the consumer reporting agency that it is in compliance with the terms of the Fair Credit Reporting Act. A Certification to Investigative Consumer Reporting Agency form will be used for this purpose⁵.
 - The reports from the consumer reporting agency will be received by the HR Director. If the background report reveals adverse information, then the HR Director will review the report with the College Counsel and College Public Safety Director, as necessary. If the adverse information is such that will result in the withdrawal of the conditional offer of employment, the HR Director is required to consult with the College Counsel and the College Counsel is strongly encouraged to consult with the Office of General Counsel, prior to such decision.
- 8) If the candidate is a current employee and the background investigation report reveals adverse information that not only supports the withdrawal of the conditional offer of employment, but also suggests that discipline in his/her current employment is warranted, such discipline shall be handled pursuant to applicable University policies and/or collectively-bargained procedures.
- 9) Discovery, at any time, of false, incomplete, or misleading information on a resume, application, or any other official document or in statements made during an interview, may result in disqualification for and/or termination of employment, subject to any applicable disciplinary procedures.

Guidelines for Determining Employment Eligibility for Applicants with Criminal History

In accordance with Article 23-A of the New York State Corrections Law, the following factors shall be considered concerning previous criminal convictions:

⁴ Forms will be supplied by the vendor and vetted by OGC

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- the public policy of this state, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses
- the specific duties and responsibilities necessarily related to the license or employment sought or held by the person
- the bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his /her fitness or ability to perform one or more such duties or responsibilities
- the time which has elapsed since the occurrence of the criminal offense or offenses
- the age of the person at the time of occurrence of the criminal offense or offenses
- the seriousness of the offense or offenses
- any information produced by the person, or produced on his behalf, in regard to his/her rehabilitation and good conduct
- the legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public

Guidelines for Determining Employment Eligibility for Applicants Requiring Credit History Check

A credit history report will be considered when determining employment eligibility for **candidates** for positions with significant fiscal responsibility. Federal and state laws prohibit the use of job applicant's personal credit history as hiring criteria, unless a reasonable business necessity is determined. Therefore, the determination of ineligibility will be considered on a case by case basis, after reviewing the credit history report.