

FAYETTEVILLE STATE UNIVERSITY

EMPLOYMENT BACKGROUND AND REFERENCE CHECKS

- Authority:** Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
- Category:** Employment – General
- Applies to:** ●Administrators ●Faculty ●Staff
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- Related Policies:** *Fair Credit Reporting Act*, 15 U.S.C. § 1681 et seq.
Recruitment and Selection of Senior Academic and Administrative Officers and Other EPA Non-Faculty Employees
Campus Security [The Code, Appendix 1, Section XV]
- Contact for Info:** Office of Legal Affairs (910) 672-1145
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I. PURPOSE

Fayetteville State University (FSU) is committed to providing a safe and secure environment for all university constituents, including employees, students and visitors. It is also important that Fayetteville State University take meaningful actions to protect its funds, property and other assets. This policy is intended to support the verification of credentials, criminal background, credit status and other information related to employment decisions that assist the FSU in meeting its commitments.

II. DEFINITIONS

- A. *Conviction* shall include pleas of no contest, deferred adjudications, and similar dispositions.
- B. *Credit history check* shall mean checking the credit history of the selected applicant or employee. (Federal laws prohibit discrimination against an applicant or employee as a result of bankruptcy.)
- C. *Criminal background check* shall mean verifying that the selected applicant or employee does not have any undisclosed criminal history in every jurisdiction where the applicant or employee currently resides or has resided.

- D. *Educational verification* shall mean ensuring that the selected applicant or employee possesses all educational credentials beyond high school listed on the application, resume or cover letter or otherwise cited by the applicant that qualify the individual for the position sought.
- E. *Employee* shall mean any person employed by FSU, whether full- or part-time, permanent or temporary. Employee does not individuals who .
- F. *Employment background check* shall include one or more of the following: verification of academic credentials; verification of prior employment including position, longevity, salary, and job performance, license verification, criminal background check; and credit history check.
- G. *Employment verification* shall mean ensuring that the selected applicant or employee actually worked in the position(s) listed on the application, resume, or cover letter or otherwise cited by the applicant that qualifies the individual for the position sought, as well as all employment during a period of at least ten (10) years immediately preceding the individual's application for a position at FSU. This verification should include dates of employment and reasons for leaving each position.
- H. *Hiring department's supervisor* shall mean the head (e.g., department chair, director) of the academic or administrative unit where the selected candidate will work. This term encompasses all categories of employees (SPA, EPA faculty and EPA non-faculty).
- I. *License verification* shall mean ensuring that the selected applicant or employee possesses all the licenses listed on the application, resume or cover letter or otherwise cited by the applicant that qualifies the individual for the position sought and verification of any license required for the position, including verification of the disposition of such licenses. This includes any motor vehicle driver's license required for the associated position.
- J. *Reference check* shall mean checking the references of the selected applicant. For applicants for EPA non-faculty and faculty positions, reference checking shall be in accordance with the *Reference Check Questions and Verifications Requirements* attached to this policy as Attachment A.

III. APPLICANTS

- A. Background checks shall be conducted for an applicant who is selected as the final candidate for a SPA, EPA non-faculty or EPA faculty full-time and/or part-time position. The following background checks are to be completed on all final candidates:
 - 1. Employment verification - to be completed by the hiring department's supervisor.
 - 2. Educational verification - to be completed by the hiring department's supervisor
 - 3. Reference checks - to be completed by the hiring department's supervisor

4. License verification - to be completed by the hiring department's supervisor except for a required motor vehicle driver's license, which is to be initiated by the hiring department's supervisor and completed by the Office of Legal Affairs (Legal Affairs).
 5. Criminal background check - to be initiated by the hiring department's supervisor and completed by Legal Affairs.
- B. Final candidates who will be occupying any of the following positions shall also have a credit history check completed as a condition of employment:
- Vice Chancellor,
 - Director of Intercollegiate Athletics
 - positions with cash handling or financial transaction access
 - as requested by the hiring department's supervisor or Office of Human Resources.

A credit history check shall be initiated by the hiring department's supervisor and completed by Legal Affairs.

- C. If the university has performed any of the above verifications or checks on an individual within the past year, a new verification or check of that specific category will not be required. The results of the previously performed verification and/or history check will be considered in any pending employment decision.

IV. CURRENT EMPLOYEES

If a current employee is convicted of a crime, his or her suitability for continued employment will be reviewed (in the same manner as applicants for the position) upon disposition of the case. The university also reserves the right to conduct verifications and/or checks on a current employee suspected of providing false information previously to the university.

V. CONFIDENTIALITY AND RECORD KEEPING

The results of all checks are to be considered a part of the employment application process and shall be kept confidential. Under North Carolina law, applications and related materials are confidential personnel documents not subject to public release.

VI. PROCESS FOR CONDUCTING CHECKS AND VERIFICATIONS

A. Criminal Background Check and Credit History Check

The criminal background check will only be used for evaluating the final candidate for employment and will not be used to discriminate on the basis of race, color, national origin, religion, gender, disability or age.

The criminal background check and credit history check should be conducted prior to employment. If circumstances prevent the checks from occurring prior to employment, the employment contract or letter shall specify that continued employment is conditioned upon acceptable background checks and that the applicant waives any right to challenge this requirement. In such cases, the checks shall be completed as soon as possible. The process for obtaining a criminal background check and credit history check is as follows:

- 1.. Once a final candidate for a position has been selected, the final candidate shall be informed by the hiring department's supervisor that in accordance with the Federal Credit Reporting Act (FCRA), the final candidate must personally authorize the university to conduct a criminal background check and/or credit history check. No criminal background and/or credit history check may be requested or conducted until this form is completed by the final candidate. If any candidate chooses not to sign the *Disclosure and Authorization Statement* (Attachment B), and/or the *Disclosure Form* (Attachment C) the university will not consider the individual further in the hiring process.
2. Once the *Disclosure and Authorization Statement (Statement)* has been signed and the *Disclosure Form* (Form) completed by the final candidate, the hiring department's supervisor shall forward the *Statement* and *Form* to Legal Affairs. Legal Affairs shall submit the request for a criminal background check, credit history check and/or driver's license check to a third-party provider who will conduct the background check(s). In order to maintain the utmost discretion and confidentiality, results will be provided to Legal Affairs.

B. Employment and Education Verifications and Checks

Once a final candidate for a position has been selected, the final candidate shall be informed by the hiring department's supervisor that the final candidate will need to complete and sign a FSU employment application. Upon receipt of a signed application, the hiring department's supervisor shall review the application and verify the candidate's employment history and educational credentials.

1. Employment Verifications

- a. Based upon the information on the final candidate's application, the hiring department's supervisor shall verify that the final candidate actually worked in the positions listed on the application that qualifies the final candidate for the position sought. All employment during a period of at least ten (10) years immediately preceding the final candidate's application for a position at FSU shall be verified. If the final candidate has not been employed for at least ten (10) years prior to applying for a position at the

university, then verification shall include all of the positions that the final candidate has held.

- b. A written record of each position that has been verified shall be made and maintained in the employee's personnel file. For EPA non-faculty and EPA faculty employees the form included in the *Reference Check Questions and Verifications Requirements* (Attachment A) shall be used for each position that is verified.

2. Education Verifications

- a. Based upon the information on the final candidate's application, the hiring department's supervisor shall review the application for employment and verify all educational credentials that are significantly related to the position qualifications. "Credentials" may include, but not be limited to degrees awarded, professional licenses, professional registrations and professional certifications. All degrees awarded shall be from accredited institutions of higher education.
- b. A written record of the educational verification(s) shall be made and maintained in the final candidate's personnel file. This record shall include the date of verification, the method of verification, the name of the official requesting the verification and the name of person or entity responding to the request. Copies of any documents obtained as a result of the verification process shall also be a part of the final candidate's personnel file.

3. Reference Checks

Based upon the information on the final candidate's application, the hiring department's supervisor shall be responsible for checking references. The hiring department's supervisor shall seek to obtain information on the final candidate's work performance and on personal characteristics that affect (positively or negatively) the final candidate's suitability for the particular position sought. Reference checks may include persons provided by the final candidate. The final candidate shall also be required to provide the names of current and former supervisors and other persons who would have knowledge of the final candidate's job performance and ability. At ***least three references*** including the current or most recent supervisor should be contacted.

- a. ***Current and Former Supervisors.*** Upon receipt of a signed application, the hiring department's supervisor shall inform the final candidate that information pertaining to the final candidate's job performance will be solicited from current and former

supervisors. If the final candidate objects to contacting his or her current supervisor, the university will not consider the individual further in the hiring process

For EPA non-faculty and EPA faculty employees, the hiring department's supervisor should pose the questions found on the *Reference Check Questions and Verifications Guidelines* (Attachment A).

- b. **Personal References.** Personal or "character" references provided by the applicant maybe contacted. However, the university is more interested in work related references that have knowledge of the final candidate's job performance and ability.

VII. REVIEWING INFORMATION RESULTING FROM BACKGROUND CHECKS

A. Criminal Background Report and Credit History Report

1. Legal Affairs Review

Once received, Legal Affairs will review the results of the criminal background check. If a candidate's criminal background report and/or credit history check reveals information that Legal Affairs deems relevant to the candidate's appropriateness as an employee of FSU, Legal Affairs will discuss the results of the reports with the hiring department's supervisor.

The existence of a conviction or plea is not an automatic exclusion from employment. Where a candidate does have a conviction or plea, the following factors will assist the university in determining suitability for employment: the nature of the crime, the circumstances surrounding the crime, the existence, number and type of other criminal convictions or pleas, the time that has elapsed since the conviction, the actions and activities of the individual since the crime, the rehabilitation record of the applicant, and any other relevant information, including the truthfulness of the applicant in disclosing the conviction or plea.

2. Pre-Adverse Action Notification

To ensure that false or erroneous information has not been transmitted in a criminal background report or credit history report, and to comply with the FCRA, the hiring department's supervisor will inform the candidate of the report result(s) if an adverse action based upon information revealed in the report(s) is being contemplated. The hiring department's supervisor will provide the candidate with a pre-adverse action notification (Attachment D) along with a copy of the report(s) and a copy of the candidate's rights

under FCRA (Attachment E). The notification, report and description of rights shall be sent by a method of delivery that requires a signature for delivery. The candidate shall be given an opportunity to address the matters revealed in the criminal background and/or credit history report within five (5) business days of the candidate's receipt of the pre-adverse action notification letter. The hiring department's supervisor shall wait five (5) business days from the date the notification is received before making a final adverse employment decision.

3. Notification of Adverse Action

Once it is determined that a candidate will not be extended an offer of employment based upon information revealed in a criminal background report or credit history report, the hiring department's supervisor will notify the candidate of the adverse action. If a conditional offer of employment has been made the hiring department's supervisor will notify the candidate that the offer of employment is withdrawn (Attachment F). Notices to candidates shall be sent via overnight express mail and contain the following information:

- a. The name, address, and telephone 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.
- b. A statement that the CRA did not make the adverse decision and is unable to give specific reasons why the adverse decision was made.
- c. Notification that the candidate has the right to:
 - i. Obtain a free copy of the report from the CRA within sixty (60) days, and
 - ii. Dispute with the CRA the accuracy of completeness of any information provided in the report.

B. Other Checks

The hiring department's supervisor shall evaluate the information obtained as a result of the employment verification, educational verification, license verification or reference checks to determine whether the results are acceptable, and the candidate should be recommended for employment. If it is determined that the candidate is not suitable for employment at FSU, the hiring department's supervisor shall discuss his or her conclusion with members of the search committee (if a search committee existed) and/or with his or her immediate supervisor. If the decision not to recommend the candidate for employment at FSU remains unchanged, the hiring department's supervisor shall notify the candidate of the decision.

C. **Falsification of Employment Application**

If it is determined that the information contained on the candidate's application is false or if it is determined that the candidate did not disclose certain information, the hiring department's supervisor should consult with Legal Affairs on whether there exists sufficient grounds to discontinue any employment consideration for the candidate.

VIII. PROCEDURES AND FORMS

A. **Communicating Information Regarding Employment Background Checks**

1. **Position Announcements and Advertisements**

All advertisements, notices, and postings for positions listed as requiring a background check will state:

This position is subject to the successful completion of an employment background check. An employment background check includes a criminal background check, employment verification, reference checks, license verification (if applicable) and credit history check (if applicable).

University employment documents and materials, including vacancy announcements, advertisements and website announcements shall specify that an employment background check will be requested for individuals who are final candidates for all position vacancies at the university. This material shall also state that an employment background check includes a criminal background check, employment verification check, reference checks, license verification check (if applicable) and credit history check (if applicable).

2. **Current Employees**

Current employees shall be informed of the requirements of this policy within a reasonable time after its adoption.

ATTACHMENT A

REFERENCE CHECK QUESTIONS AND VERIFICATIONS REQUIREMENTS

Fayetteville State University has selected you to be part of a search committee and the university expects that you will undertake this responsibility with pride. It is paramount that you use “**due diligence**” in ensuring that we hire individuals that are fully qualified and capable of helping us reach our goals. The following are general questions to assist search committees in interviewing references of applicants. These questions are not all inclusive. In addition, included are citations that **mandate** certain checks/verifications be done. This list of questions was created to help you document your part in the recruitment/hiring process of new members of the Bronco TEAM. Reference letters provided by the applicant or delivered to the committee **shall not substitute** for reference checks.

The UNC Policy Manual **requires** certain documentation/verifications to be made by Fayetteville State university.

Based upon an examination of the position description, the employer **must verify credential and other information** significantly related to job qualifications. “Credentials” may include degrees awarded, professional licenses, professional registrations and professional certifications. “**Other information**” may include prior work or study experience. Policy Manual 300.2.3[R] (2)(a)

A written record of the verifications(s) **shall be made and maintained** in the employee’s personnel file. This record **shall include** the date of verification, the method of verification, the name of the official requesting the verification and the name of the person or entity responding to the request, with copies of any documents procured incident to the verification process. Policy Manual 300.2.3[R] (2)(b)

The following questions **will be used** to meet the “written verification” required/described above, unless the search committee or chair has created questions that cover the same information.

Part I: Complete before interview (obtain information from application).

Candidate’s name: _____ Position applied for: _____

Employer (or former employer): _____

Immediate or former Supervisor’s name/title: _____

Employer’s (or former employer’s) telephone number: _____

Candidate's (former) Job Title: _____ Dates of employment: _____

Salary or final salary: _____ Dates of employment: _____

Part II: To be completed during the telephone reference check. Tailor questions to important competencies for position – make the same inquires for all candidates.

Name/title of the person being interviewed: _____

How long have you known the candidate and in what capacity?

Verify candidate's dates of employment, salary (per annum), and position.

Why did candidate leave? _____

How well did candidate get along with faculty, staff, and students?

How would you rate the quality of the candidate's teaching? _____

How would you rate the quality of the candidate's scholarship?

How would you rate the candidate's service contributions to department/institution?

Candidate's strength/weakness. _____

Was the candidate reliable? Show good judgment? Initiative? _____

Did the candidate meet commitments?

Based on your personal knowledge, has a complaint ever been filed against the candidate alleging that he/she ever committed inappropriate conduct as to either students, staff or others? (This question should be asked of the candidate's Chair/Dean/Supervisor. If negative information is provided, it should be confirmed with other persons to verify its truth.)

If so, could you provide details, dates etc.?

Do you have an opinion as to the kind of position/work environment the candidate would work best in? _____

Is candidate eligible for reemployment? _____

Is there anything else that I have not asked about, but that you would like to tell me about the candidate? _____

Interview conducted by: _____ Date: _____

Part III: Verification of publications/articles etc. Must be completed for all final candidates, either before the interview or afterwards, but in all cases before a hiring decision is made.

List publications checked:

List Articles checked and verify they appear in Journal indicated:

- Publications/articles may be verified by making copies and making part of the file or by researching them on the internet. Regardless of which method is used, a sampling of those presented by the applicant must be verified and documented.

Conducted by: _____ Date(s): _____

ATTACHMENT B

DISCLOSURE AND AUTHORIZATION STATEMENT

Employee Name _____
Position Sought _____
Position Number _____
Department/Unit _____
Dept. Chair/Head _____
Supervisor _____

I understand that by this document Fayetteville State university (FSU) discloses that a criminal background check and/or a credit history check may be obtained as part of my pre-employment background investigation or after employment has begun under a contract which makes employment contingent upon completion of a criminal background check and/or a credit history check. A consumer or credit reporting agency that has a contractual relationship with the university will provide this report.

By signing this document, I authorize FSU to procure a criminal background report and/or a credit history report from a consumer or credit reporting agency and I hereby release Fayetteville State university, members of its board, officers, employees, agents, and representatives from all liability or responsibility arising out the information provided in the consumer reports and also out of the manner in which the reports were prepared, provided and considered by the university and/or the consumer reporting agency. I further authorize any party or agency contacted by FSU or its agent to furnish criminal background information and/or credit history information and hereby release all such parties involved from any liability and responsibility for damages for having furnished such information in good faith.

I understand that the information requested on the disclosure form is for the sole purpose of gathering the above-mentioned information about me accurately, and that it will not be used to discriminate against me in violation of the law. I understand that providing my social security number on this form is voluntary and is for the sole purpose of obtaining a criminal background report. A facsimile or photographic copy of this authorization will be as valid as the original.

I understand that if I fail or refuse to execute this document no further consideration will be given to my application for employment.

Applicant's Full Legal Name (Signature)

Date

Applicant's Full Legal Name (Print)

Upon completion, please fax to the attention of Wanda L. Jenkins, General Counsel at 910-672-2291. Thank you.

ATTACHMENT C
DISCLOSURE FORM

Employee Name _____
Position Sought _____
Position Number _____
Department/Unit _____
Dept. Chair/Head _____
Supervisor _____

PLEASE PRINT OR TYPE ALL INFORMATION

Last Name _____ First Name _____

Middle _____ Maiden Name _____

AKA _____

Social Security Number _____ Date of Birth _____

Driver's License Number _____ State _____

Driver's License Issue Date _____

Sex: ()Male ()Female Race: _____

Current Address:

Length at Current address: _____ (If less than 7 years please provide previous addresses)

Previous Address (1):

Previous Address(2):

Length at previous address(1): _____ , Length at previous address(2): _____.

**Upon completion, please fax to the attention of Wanda L. Jenkins, General Counsel at 910-672-2291.
Thank you.**

ATTACHMENT D

PRE-ADVERSE ACTION NOTICE

Dear _____; (Final Candidate)

Enclosed please find a copy of your criminal background report/credit report we have obtained as part of Fayetteville State university's employment application process. Also enclosed, you will find a copy of *A Summary of Your Rights Under the Fair Credit Reporting Act (Summary)*. An adverse employment decision may be made based upon the information revealed in your criminal background report/credit report (consumer report). Adverse employment decision means that the university intends to take no further action on your application.

Please read the report and the *Summary* carefully. If you wish, you may respond in writing to the information revealed in the report. I must receive this written response via mail at the following address and/or facsimile within five (5) business days of your receipt of this letter.

Please contact me with any questions at (910) 672-_____.

Sincerely,

Enclosures: Consumer Report
Summary of Rights

cc: Office of Legal Affairs

ATTACHMENT E

A SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT

The Fair Credit Reporting Act (FCRA) was enacted to promote fairness in the consideration of information provided to an employer by consumer reporting agencies. The agency with which Fayetteville State university has contracted (the "CRA" or Consumer Reporting Agency) will gather information about criminal background records and credit records and provide reports on that information to the university. The actions of the university and the agency in gathering and utilizing these reports are guided by the provisions in the FCRA. A complete text of the Act may be found at 15 U.S.C. 1681-1681u and at the Federal Trade Commission's web site: <http://www.ftc.gov>.

In the paragraphs below, your rights under FCRA are summarized. You may have additional rights under North Carolina law. You may contact the Consumer Protection Division of the North Carolina Attorney General's Office to learn those rights.

- You must be told if information in your file has been used against you. Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.
- You can find out what is in your file. At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.
- You can dispute inaccurate information with the CRA. If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs --to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

- Inaccurate information must be corrected or deleted. A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.
- You can dispute inaccurate items with the source of the information. If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.
- Outdated information may not be reported. In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- Access to your file is limited. A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- Your consent is required for reports that are provided to employers, or reports that contain medical information. A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.
- You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.
- You may seek damages from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

ATTACHMENT F
ADVERSE ACTION NOTICE

Dear _____: (Candidate)

This letter shall serve to notify you that after careful consideration, we have determined not to offer you employment. This decision was based, in whole or in part, on information contained in a criminal background check/credit report (consumer report) obtained with your written authorization and consent. The consumer report was compiled, prepared and provided by:

[Name of Company]
[Address]
[Telephone]

[Name of Company] did not make any decision or participate in making any decision concerning your employment and cannot provide you with reasons for this decision. You do however have the right to contact [Name of Company] to dispute the accuracy or completeness of any information or data contained in the consumer report. Although you have already received a copy of the consumer report and a summary of rights with the pre-adverse action notice, you have the right, upon providing proper identification, to obtain from [Name of Company] an additional free copy of the consumer report provided to the university in connection with your application for employment. You must make this request to the consumer reporting agency within sixty (60) days.

Sincerely,