



Policy 4.126

Criminal Background Checks (Faculty)

Responsible Official:	VP for Human Resources
Administering Division/Department:	Human Resources
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Overview

It is the policy of Emory to require a criminal background check, and, depending on the position, a credit check and/or a sexual offender check, for all newly hired regular full/part time faculty, rehired faculty, current faculty who work with minors, and current faculty in certain sensitive positions as defined herein, as a condition of employment.

Applicability

n/a

Policy Details

The University will conduct a pre-employment criminal check, and, depending on the position, a credit check or a sexual offender check, for prospective faculty appointees and faculty rehired after more than a six (6) month break in employment from Emory. It is intended that the background check be completed prior to beginning employment at



Emory. In addition, the University will conduct criminal checks, and, depending on the position, a credit check or a sexual offender check, on faculty who currently work with minors or are in certain sensitive positions as defined herein. For the purpose of clarity, a current faculty member whose interaction with minors is limited to undergraduate students who are enrolled in his or her class is not required to submit to a criminal check under this policy.

Appointment Procedures

All prospective faculty selected for hiring in any faculty search will be asked to voluntarily disclose any criminal convictions and to consent to a background check by signing a criminal history consent form. Failure to consent to a background check or any misrepresentation in a voluntary disclosure may result in a revocation of an offer of employment. All offers of faculty appointment are contingent upon verification of information provided by the new faculty candidate. Background checks will be completed before an offer of employment is made. If circumstances dictate that an offer of employment be extended before completion of a background check, the offer letter must state that the offer and continued employment is contingent upon the successful completion of the check.

All current faculty members who work with minors (a current faculty member whose interaction with minors is limited to undergraduate students who are enrolled in his or her class is not required to submit to a criminal check under this policy) and are in certain sensitive positions as defined herein will be asked to voluntarily disclose any criminal convictions and to consent to a background check by signing a criminal history consent form. Failure to consent to a background check or any misrepresentation in a voluntary disclosure may result in punitive actions up to and including termination. If the results of a criminal background check are not favorable, such results will be reported to the Office of the Provost and the appropriate dean and could result in measures including but not limited to removal from a position.

The Office of the Provost, in consultation with the Office of Human Resources, will oversee the background check process checks and Human Resources will be responsible for retention of criminal history information in accordance with Emory's records retention guidelines.

Employment eligibility, or continued employment in a position that involves interaction with minors or other certain sensitive positions as defined herein, of individuals who indicate on their consent form that they have been convicted of a felony and some serious misdemeanors such as DUI (including a plea of nolo contendere) will be considered on a case-by-case basis by the Provost's office. The Provost's office, in consultation with the Dean and Human Resources, will make the employment decision based on the type of criminal activity for which the individual was convicted, the length of time since the conviction, and the duties and location of the faculty appointment.

If the results of the criminal background check are not favorable and there is a reason to believe the information may not be current, the new faculty candidate or current faculty member will be given the opportunity to refute the results before a faculty appointment is withdrawn or other action is taken. Giving false or incomplete information is sufficient cause to disqualify a potential faculty member from appointment or to cause termination of a current faculty member's employment.

This policy does not apply to physician faculty appointments. These appointments will follow the credentialing process for physicians, which includes a criminal background check.

For purposes of this policy, sensitive positions include those positions that (1) have significant financial responsibilities; (2) include leading groups of students/minors off campus for several days at a time; (3) require the driving or operation of Emory vehicles; and (4) involve work with controlled substances.

EMORY UNIVERSITY BACKGROUND CHECK PROCEDURES FOR PROSPECTIVE FACULTY AND FACULTY WHO WORK WITH MINORS OR ARE IN OTHER SENSITIVE POSITIONS

Emory University is committed to providing a safe and secure environment for the University community in support of its overall mission. These procedures are intended to help the University achieve this goal by requiring the use of Background Checks in the hiring of prospective faculty and other faculty in certain positions. The Background Check will be used solely to evaluate an individual's eligibility to be engaged in any work capacity by the University and will not be used to discriminate on the basis of race, color, age, ethnicity, religion, national origin, genetic information, pregnancy, sexual orientation, gender identity, sex, marital status, disability, status as a U.S. veteran, political persuasion or intellectual viewpoints.



Scope

Offers of employment for prospective faculty shall be made contingent upon the successful completion of a Background Check. The faculty member's first day of work will not commence until the Background Check has been successfully completed. In the rare circumstance where a faculty member is hired to teach, and classes start before the results of the Background Check are received, the Office of the Provost has the authority to make an exception and allow the faculty member to commence teaching. Upon the faculty member's execution of an agreement indicating his/her understanding that, if the Background Check results in the decision that the faculty member is not eligible to be employed, the faculty member will be notified immediately and his/her employment will be terminated immediately without any recourse against the University for any costs or expenses incurred or for any injury or damages that are claimed to have been incurred. Faculty who have a Break in Service of greater than 9 months must consent to a Background Check when they return, as outlined herein. Emeritus professors are exempt from this process.

Requirements

Emory University utilizes a vendor (currently, HireRight) that performs employment screening services to perform the Background Check ("Background Check Vendor"). Prospective faculty, rehired faculty, current faculty who work with minors and current faculty who work in certain sensitive positions, will be required to complete a release and to disclose to the Background Check Vendor all criminal convictions and pending felony charges, as well as Social Security Number, date of birth, and current and prior residential addresses.

Individuals with a criminal conviction, pending felony charge or sex or violent offender listing may be disqualified from employment at the University based on the relevance of the offense to the position and the business necessity to avoid an unacceptable level of risk. The University will consider the nature and seriousness of the offense, the length of time since an offense occurred, any mitigating factors, rehabilitation pursued, non-recurrence of criminal behavior and the nature of the position to determine whether the individual presents an unacceptable level of risk to the Emory community if employed.

Confidentiality

All Background Check results shall be reviewed and handled in a confidential manner and in compliance with all applicable federal, state, and local laws including the Fair Credit Reporting Act (FCRA). The information obtained from the Background Check Vendor will be shared with the designee appointed by the Office of the Provost and Office of Human Resources to evaluate an individual's eligibility to be employed as a faculty member. The personnel file will contain information that the Background Check was successfully completed. However, the detailed background information obtained will be retained by Human Resources in accordance with Emory's records retention guidelines.

Process

1. Faculty candidates, including candidates with a break in service, or current faculty members who work with minors or in certain other identified positions will be required to sign a form authorizing a Background Check and affirming they understand information from by the Background Check will be used to make an employment decision. Upon finalization of the intent to employ or continue to employ, the department will provide the faculty member or prospective faculty member with instructions to provide the Background Check Vendor the information needed to conduct the Background Check (Social Security Number, date of birth, current residential address and residential address for the past seven (7) years, as well as a list of criminal convictions the candidate has sustained and any pending felony charges).
2. The designated individual(s) in the Office of Human Resources will receive and review the results of the Background Check from the Background Check Vendor. Domestic check results are generally received in 36 – 48 hours. Results from international checks may take 30 to 90 days to receive, depending on the country.
3. If the Background Check reveals no criminal conviction in the prior seven (7) years, no criminal conviction involving violence or sexual misconduct at any time, no pending felony charge, and no sex or violent offender listing, Human Resources will notify the hiring department that the candidate is cleared to be hired or to continue to be employed.
4. If the Background Check reveals a criminal conviction in the prior seven (7) years, a criminal conviction involving violence or sexual misconduct at any time, or inclusion on a sex or violent offender listing, Human



Resources shall send the report to the candidate according to the FCRA guidelines. The candidate will be given seven (7) days to respond to Human Resources with information showing that the data should not disqualify the candidate from being hired or retained in the current position (such as mistaken identity; report inaccuracies; background facts demonstrating mitigating circumstances, such as age at time of conviction; consistency, quality, and length of employment history before and after the offense or conduct; rehabilitation efforts and employment/character references, among other factors). Human Resources will review the information, and if the candidate is deemed to be eligible for hire or continued employment in the current position, Human Resources will notify the Hiring Department the individual has cleared the Background Check. If the data along with the information provided by the candidate is such that the candidate may be disqualified, Human Resources will provide the data and information to the Provost's Office. Crimes that would raise particular concern are those involving violence, dishonesty or breach of trust, including but are not limited to, murder, rape, fraud, embezzlement, and child abuse. The Provost's Office will review the report in consultation with the applicable Department Chair, applicable Dean of the College or School, and the Vice President of Human Resources (or his or her designee). The Provost Office in consultation with the Dean of the College or School and Human Resources will make the ultimate hiring decision based on the background check results.

Definitions

Background Check:

For purposes of this procedure, a Background Check will consist of validating that the Social Security Number was issued, identifying the year and state of issuance and verifying that the candidate's name and the social security number match and belong to the candidate, a search of the national sex offender registry maintained by the Department of Justice, state sex and violent offender registries, and federal and state and county court records for Criminal Convictions and pending felony charges in the jurisdiction of the individual's current residence and all jurisdictions where the individual has resided for the past seven (7) years. Equivalent records for foreign nationals will be searched.

Break in Service

Any period of nine (9) months or more during which the candidate is separated from the University and does not maintain an employment relationship with the University. An approved leave of absence is not considered a Break in Service.

Criminal Conviction

A final judgment on a felony and some serious misdemeanors such as DUI (as defined by the jurisdiction in which the conviction occurred) by virtue of a guilty verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere. This shall not include a final judgment which has been expunged or sealed, reversed, set aside or otherwise determined to be invalid or unconstitutional.

Faculty (non emeritus)

All regular full-time and part-time faculty in all schools and colleges.

FCRA (Fair Credit and Reporting Act)

A Federal law designed to promote the accuracy, fairness and privacy of information provided to potential creditors and potential employers by third parties - codified at 15 U.S.C. § 1681 et seq.

Related Links

- Current Version of This Policy: <http://policies.emory.edu/4.126>



Contact Information

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Revision History

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