



Policy Number: HRO.105

Policy Title: Background Check Policy

Responsible Office: Human Resources

Policy Owner: CFO

Revision Date: 06/01/2018

I. Purpose

These procedures provide requirements and guidelines for the conduct of criminal background checks in applicant and volunteer decisions; an operating procedure for the administration of criminal background checks.

II. Policy

North American University is committed to promoting the safety and security of personnel and NAU property consistent with the requirements of the law. To that end, it is the policy of NAU to require that a criminal background check be performed for employment, for volunteers and interns, and contractor employees who are assigned to perform work on NAU property if deemed necessary by Facilities Management in consultation with campus security.

III. Procedures

- a) **Criminal Background Check Required.** NAU requires that a criminal background check be obtained on:
 - I. Applicants for Employment. A background check must be conducted on any applicant, internal or external, who is under final consideration, following normal screening and selection processes, for any position of employment with NAU.
 - II. Current Employees. A criminal background check must be conducted on:
 - All current employees,
 - volunteers,
 - and interns if NAU has not previously obtained a criminal background check; and
 - a current employee when the President, or his/her designee, determines it is necessary to further the goals of NAU.
- b) **Summer Fun Youth Programs** - In addition to fully complying with all applicable state and federal laws relating to criminal background checks, the following provisions apply to all youth camps operated by, on the property of, or in the facilities of North American University. Youth camps will shall ensure that for all employees and final applicants who will work at the camp, and all volunteers and student observers, will regularly or frequently be at the camp are subject to a criminal background check each year. The check will be conducted prior to permitting an individual to work, volunteer or be present.
- c) **Procedures for Conducting Check** –NAU uses a third party to conduct the background checks, Kress, the NAU background check vendor.
 - i. A criminal background check will not be performed until Human Resources receives a signed Consent to Perform Criminal History Background Check in Compliance with the FCRA (Form 6200-40 Employment) **and** Volunteer Background Check Acknowledgement Form (Form 6200-41 Non-employment Background Checks Only).
 - ii. The Human Resources Office is responsible for directing the individual to complete, sign, and deliver the form to the Human Resources Office. An applicant who fails to complete, sign, and submit the form will be removed from further consideration for the position.
 - iii. The resulting report is considered a “consumer report” under the Fair Credit Reporting Act (FCRA). If such a report is relied on to deny employment, deny a promotion, reassign, or terminate an employee, the individual will be provided with a specific pre-adverse action disclosure that includes a copy of the individual's consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual's report is required to give NAU the summary of consumer rights (<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>)
- d) The following background check sources may be used as appropriate:

- The Texas Department of Public Safety (DPS) Crime Records Service Secure or Public Site check;
 - A sex offender registration check;
 - An appropriate out-of-state check; and
 - An international check for any foreign national who the Summer Fun Youth Program Director has reason to believe lived outside the United States after the age of 14 unless the persons visa issuance or renewal occurred after implementation of the U.S. Patriot Act on October 24, 2011. (Reasonable efforts will be used to obtain such check and it need only be conducted initially if the individual does not live outside the United States during the year.)
- e) Any or all of the following background check sources may be used, as appropriate, on current employees:
- The TxDPS Crime Records Service – Public Site.
 - Other public state, national, and international sites.
 - A private vendor, subject to compliance with the Fair Credit Reporting Act.
 - Statutorily Required Criminal Background Check. Where State or federal law requires that a position/individual be subject to a criminal background check using a specific source of criminal background check information and/or certain procedures, NAU will comply with such laws.
- f) **A criminal background check is not required for the following current NAU employees:**
- Staff. When there is a change in job title with no change in current responsibilities, or for a promotion or other advancement that is part of an employee’s normal career progression under the responsibility of the same Vice President or Dean.
 - Faculty. When there is a promotion or other advancement that is part of the faculty member’s normal career progression such as current faculty promoted from Assistant Professor to Associate Professor.
- g) **Notice on Performing a Background Check on job descriptions, advertisements and job postings;**
 NAU Human Resources Office will ensure that all job advertisements and postings for NAU include a statement that the position requires a criminal background check including but not limited to criminal history record information.
- i. In addition, if the applicant is a current staff member, refusal to submit the completed form will be grounds for disciplinary action.
 - ii. If circumstances require that an offer of employment be made before the completion of the criminal background check, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation.
 - iii. The Human Resources Office will retain all background results separate from Personnel Records. Volunteer records will be kept for a period of 3 years.
- h) **Conducting a Criminal Background Check on Current Employees.**
 NAU, in addition to utilizing a third part vendor, may utilize the Crime Records Service – Public Site and/or other publicly available local, state, or federal criminal record sources to perform these checks to obtain criminal conviction record information and other publicly available information.
 NAU HR Office will promptly obtain and review the criminal background information. In the case of a faculty member HR will notify the Provost and Vice President for Academic Affairs (Provost) and President.
- i) NAU will not automatically disqualify from employment all individuals with conviction records. In the event the criminal history check investigation reveals criminal convictions or other relevant information, the designated hiring official(s) will determine, on a case-by-case basis, whether the individual is qualified based on a number of factors including, but not limited to:
- Specific duties of the position;
 - Number of offenses;
 - Nature of each offense;
 - Length of time intervening between the offense and the employment decision;
 - Employment history;
 - Efforts at rehabilitation; and
 - Accuracy of the information that the individual provided on the employment application.
- j) **Falsification or Omission of Criminal Record Information.**
 Falsification of an application or omission of criminal record information required to be reported is grounds to reject an applicant or discipline/terminate an employee.

k) **Notice Requirement.**

If NAU receives a report indicating that an applicant or a current employee has a criminal record, the individual will be notified, provided with a copy of the report (except as provided by law or DPS policy or procedure), informed of the right to challenge the accuracy and completeness of the report with the agency that provided the report, and informed that he/she has the opportunity to submit additional information relating to the criminal record as to why it should not affect an employment decision.

- i. Within five business days following the receipt of the report, the individual may submit additional information to the Human Resources Office relating to the criminal record and why it should not affect the employment decision. Before the hiring team makes a final employment decision, he/she will review all information provided to him/her with the Human Resources Office and Facilities Director (and in the case of a faculty member, with the Provost and Department Chair) and consult about whether to proceed with an offer of employment or an adverse employment action.
- ii. If either Human Resources or Facilities Director (or in the case of a faculty member, the Provost and Department Chair) is of the opinion that the results of the criminal background check indicate that the individual may be unacceptable for the position being filled or for continued employment, then the hiring manager may not extend an offer to or continue employment of the individual without the prior written approval of the applicable executive officer or his or her designee.

l) **Opportunity to Respond.**

- i. External Applicants for Employment. The decision of NAU is final and may not be appealed.
- ii. Current Staff. Staff grievance procedures are available to challenge the decision. If the criminal record leads to termination, the applicable staff member discipline and discharge procedure will be used.
- iii. Current Faculty. Within five business days following their receipt of the report (unless an extension has been granted by the Provost because the faculty member is on leave and unable to respond in the five-day period), the current faculty member may submit additional information to the Department Chair relating to the criminal record and why it should not affect their employment. If the current faculty member so requests in writing, before the employment decision is made, the Department Chair will review the information with an officially designated faculty committee and obtain a written recommendation from the committee about whether to proceed with an offer or adverse employment decision.
- iv. The faculty committee will be constituted completely by faculty appointed by the President from a list of faculty provided by the Faculty Senate to serve on faculty hearing tribunals in accordance with NAU Policies. After the panel makes its recommendation, the affected faculty member may present a grievance, in person or through a representative, as described in NAU grievance procedures. The Provost shall meet with the faculty member and then issue a written determination on the grievance. The decision of the Provost is final and shall not be subject to further review.

m) **Self-Reporting.**

- i. Applicants for Employment. Applicants must report in writing any criminal complaint, information, indictment, no contest plea, guilty plea, deferred adjudication, or convictions, excluding traffic offenses punishable only by fine, occurring after the date of application within five business days.
- ii. Current Employees. NAU/GLS employees are required to report to their department head in writing, within five business days, any criminal complaint, information, indictment, no contest plea, guilty plea, deferred adjudication, or criminal conviction, excluding those for misdemeanor offenses punishable only by fine. Failure to do so is a violation of policy and may lead to disciplinary action as appropriate.
- iii. Department Head Obligation. The NAU department head receiving a self-report as required under this section must provide the information to the Human Resources Office and The Facilities Director and consult with these offices about the individual's suitability for the position. In the case of a faculty member, the department head should advise the Human Resources Office, Facilities Director and Provost.

n) **Retention of Criminal Background Check Records.**

- i. Confidential Records. Records obtained from a criminal background check database will be regarded as confidential as required by law and will not be made a part of the applicant's file or the employee's personnel file. The information will be kept in a separate secure file and will not be communicated to any unauthorized person.
- ii. **Criminal History Record Information.**
Under Texas Government Code Section 411.085, the unauthorized release of criminal history record information, information obtained from the TxDPS secure site consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, is a criminal offense

and, consequently, NAU officials in possession of such information shall seek legal advice with respect to any requested release of such information.

iii. **Destruction of Records Obtained from a Criminal Background Check Database.**

NAU HR Office shall destroy all records obtained from a criminal background check database regarding an individual one year after it is obtained.

o) Self-Reports.

- i. Self-reports of charges or convictions as required by this policy will be maintained with the employee's personnel file in Human Resources in accordance with NAU's records retention schedule.

p) Other Background Checks.

This policy and procedure addresses criminal background checks only and does not limit NAU's authority to conduct other background checks as permitted by law.

Who Should Read This Policy

Faculty, Staff and Administrators

Related Documents and References

Employee Handbook