



Delaware State University

University Area(s) Responsible: Department of Human Resources; Office of Enterprise Risk Management; Office of the General Counsel

Policy Number & Name: 4-28: Employment Background Check Process

Approval Date: 11/4/13

Revisions: 11/25/2013

Reviewed: _____

Related Policies & Procedures: 4-01: Nondiscrimination, 4-19: Transfers and Promotions Policy, 4-20 Interdepartmental/Interdivisional Transfers, Recruitment, Selection and Hiring of Classified and Professional Employees

1. Purpose

Delaware State University (DSU) strives to provide the safest possible environment for students, faculty, staff and visitors; to preserve University resources and to uphold the reputation and integrity of the University. DSU will conduct background checks as well as support efforts to minimize institutional risk by assisting hiring authorities in making sound decisions through the verification of the educational records, employment history and criminal records of potential employees. This policy also establishes a process for ensuring background checks are completed for individuals (paid or unpaid) who are engaged by Delaware State University in any employed capacity. This policy does not apply to student workers. Employed capacity includes but is not limited to all DSU employees, volunteers working with minors, adjunct faculty, consultants, contractors and other similar positions.

Background checks will be used solely to verify and evaluate a candidates' eligibility to be engaged in a work capacity at DSU. Background checks will not be used to discriminate on the basis of race, color, national origin, ancestry, religious creed, gender, disability or handicap, age, veteran's status, gender identity or sexual orientation.

2. Scope and Applicability

Employment background checks will be conducted on all new DSU employees and annually on all DSU volunteers working with minors.

3. Definitions

- 3.1 Consumer Reporting Agency** - Defined by the Fair Credit Reporting Act as: “Any person or entity which, for a fee, dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information, or other information, on consumers for the purpose of furnishing Consumer Reports to third parties.” For the purposes of this policy, a Consumer Reporting Agency refers to the vendor used by Delaware State University to conduct Background Checks.
- 3.2 Credit History Check** - Review of an individual’s detailed credit history, as contained in a Consumer Report in accordance with the Fair Credit Reporting Act. Delaware State University’s use of credit history checks will be consistent with state and federal law. It shall be an unlawful discriminatory practice for any employer or any employer's agent, representative or designee to require an employee or prospective employee to consent to the creation of a credit report that contains information about the employee's or prospective employee's credit score, credit account balances, payment history, savings or checking account balances or savings or checking account numbers as a condition of employment unless one of the following applies: (1) Such report is substantially related to the employee's current or potential job; (2) Such report is required by law; or (3) DSU reasonably believes that the employee has engaged in a specific activity that constitutes a violation of the law. Federal laws prohibit discrimination against an applicant or employee as a result of bankruptcy.
- 3.3 Criminal Conviction** -Being found guilty, entering a guilty plea or pleading no contest to a felony and/or misdemeanor as outlined in the Delaware State University self disclosure form. Convictions for which the individual’s record has been expunged may not be considered.
- 3.4 Criminal History Check** - Verification that an individual does not have any undisclosed criminal convictions in any jurisdiction.
- 3.5 Educational Verification** - Confirmation of an individual’s educational credentials listed on the application, resume or cover letter, or otherwise cited by the individual.
- 3.6 Employment** - Any person engaged in work for DSU whose wages are paid directly by Delaware State University, whether full-or part-time and regardless of whether the position is benefits-eligible is employed by DSU. For purposes of this policy this definition does not apply to student workers.
- 3.7 License Verification** - Confirmation that the selected candidate or employee possesses all licenses listed on the application, resume or cover letter, or otherwise cited by the candidate or employee, including verification of the disposition of such licenses. This includes any motor vehicle driver’s licenses

required for a position involving regular use of University vehicles or the authorized use of motor vehicles.

3.8 Minor - A person under the age of eighteen (18) who is not enrolled or accepted for enrollment at the University. Students who are “dually enrolled” in University programs while also enrolled in elementary, middle and/or high school are not included in this policy unless such enrollment includes overnight housing in University facilities.

3.9 Sensitive/Critical Positions - Positions whose responsibilities may include the following

3.9.1 Master key access to all or the majority of all, offices or facilities within buildings (including residences or other on-site or off-site facilities).

3.9.2 Direct responsibility for the care, safety and security of people, or the safety and security of personal and University property (includes child care workers, physicians, student affairs officers, residence hall supervisors, coaches, transit drivers, etc.)

3.9.3 Direct responsibility for the care, safety and security of animals

3.9.4 Direct responsibility for providing legal counsel to the University and/or outside parties

3.9.5 Direct access to or responsibility for cash, cash equivalents, checks, credit card account information, or University property disbursements or receipts

3.9.6 Extensive authority for committing the financial resources of the University

3.9.7 Direct access to or responsibility for controlled substances or hazardous materials

3.9.8 Direct access to or responsibility for protected, personal or other sensitive data (includes auditors, information systems personnel, human resources and payroll staff, registrars, etc.)

3.9.9 Administrator, Academic Administrator and Executive positions

3.9.10 Other positions as defined by units that have a job-related need for additional background checks.

3.10 Sex and Violent Offender Registry Check - Verification that the selected individual does not have undisclosed convictions of certain sex and/or other violent crimes in any jurisdiction.

3.11 Volunteers (working with minors) - Unpaid individuals working with minors involved in University-Sponsored Programs or Programs held at the University and/or housed in University facilities.

4. Policy

4.1 DSU will conduct background checks on all job candidates (other than student workers) to whom an offer of employment has been made. All offers of employment are contingent upon the successful completion of a background check. A successful background check must be completed prior to the first day of

work or engagement with the University in the position identified. Any exceptions need prior approval by the Office of Human Resources.

- 4.2 Candidates for employment who fail to participate fully or who provide inaccurate information in a background check will be eliminated from consideration for the position. Candidates may decline to authorize a background check; in such cases, no background check will be performed, but the candidate will not be considered further, and any offer of employment is immediately withdrawn.
- 4.3 The existence of a criminal conviction will not automatically disqualify an individual from employment or employment consideration.
- 4.4 In cases where information in the background check report will result in an adverse hiring decision, DSU will provide a copy of the report to the candidate without his or her request. In cases in which information in a Consumer Report results in an adverse employment decision, the University will provide the candidate with all required notifications pursuant to the Fair Credit Reporting Act and applicable law(s).
- 4.5 All individuals hired through an executive staffing agency or similar staffing company must complete either a Delaware State University background check consistent with position requirements or have confirmation of a background check of the required criteria having been completed by the staffing agency.
- 4.6 For DSU employees, a break in service of six months or less does not require a new background check unless the individual returns to an assignment requiring a check(s) which was not previously performed. Approved employee leaves of one year or longer will require the employee to complete a Delaware State University self disclosure form before returning to work. Breaks in service for employees of greater than one year may, at the discretion of the Office of Human resources, require a new background check to be completed.
- 4.7 **Unpaid Individuals and/or International Scholars or Faculty** working for or engaged by the University in a paid or unpaid capacity will be subject to background checks. Depending upon the responsibilities of the position, the individual must:
 - 4.7.1 Be sponsored by the engaging unit to have a background check(s) completed by the University based on the job requirements of the position. The background check must be satisfactorily completed prior to beginning work.
 - 4.7.2 Go through an export control check.
- 4.8 Volunteers working with minors are required to have successful background checks prior to the initial date of assignment.
- 4.9 **Third-Party Employees:** Consultants, contractors and temporary staffing agency employees working for or engaged by the University. Depending upon the responsibilities of the position, the individual must:
 - 4.9.1 Be covered by a signed contractor's or vendor's agreement that confirms their employees have had background checks that meet or exceed the University's standards for the type of work being performed.

4.10 Periodic Updates or Additional Background Checks: Delaware State University retains the right to conduct relevant background checks of current employees when it has reasonable grounds to do so, e.g., no prior check was performed, a workplace incident has occurred, upon disclosure of criminal activity, a new designation to a sensitive or critical position, or upon a change of assignment. Information will be used only if job related and will not necessarily affect employment.

4.10.1 Positions where it can be regularly anticipated that a responsibility of the position will be to drive a University-owned vehicle or where an individual may be asked to transport minors, must pass a motor vehicle record check. Motor vehicle checks will be updated every three years for positions, as relevant, and it is the department's and supervisor's responsibility to initiate the process.

4.10.2 State or federal laws or regulations, professional associations, licensing entities or contracting partners may impose background screening check requirements upon certain individuals. In these cases, the affected individual and department should coordinate the need for such a check with the Office of Human Resources. Under no circumstances should employees conduct, or seek to conduct, a background check, without first consulting with and receiving approval from the Office of Human Resources.

5. Procedure

5.1 All background check reports are confidential and the information disclosed therein may only be disclosed to the Associate Vice President of Human Resources or his or her designee and University General Counsel.

5.2 Candidates for employment will be informed that any job offer is contingent upon a satisfactory background check that will be conducted by a consumer reporting agency for review by the University. The Associate Vice President of Human Resources may authorize conditional employment pending the outcome of a background check.

5.3 Candidates who have been offered employment will be asked to complete a self-disclosure form acknowledging that all information provided on the form for the background check is true and complete to the best of the individual's knowledge and complete and sign a release authorizing DSU to conduct a background check.

5.4 Verification of credentials and other information about an employee or other individual (paid or unpaid) will be related to the job for which the employee is being considered and may include any or all of the following background checks:

5.4.1 Criminal History Check

5.4.2 Sex and Violent Offender Registry Check

5.4.3 Education Verification (required for all academic and professional positions)

- 5.4.4 Motor Vehicle Record (required for positions where it can be regularly anticipated that a responsibility of the position will be to drive a University-owned vehicle)
 - 5.4.5 Credit History Check (conducted only for sensitive or critical positions with extensive authority to commit financial resources of the University including Administrator and Executive positions; or as required by law; or due to a reasonable belief that an employee has engaged in a specific activity that constitutes a violation of the law)
 - 5.4.6 Employment Verifications
 - 5.4.7 License Verification
 - 5.4.8 Other verifications, as needed, based on job requirements
 - 5.4.9 Authorization to work in the United States (for foreign nationals).
- 5.5 If the background check yields information about a criminal conviction or other area of concern, DSU will first consider the nature and gravity of the offense(s), the number of offenses, the age of the offense, the completion of any remediation for the offense, any discrepancies between the background check and what the candidate or employee self-disclosed and the relation of the offense or area of concern to the job in question. Further, DSU will allow the applicant an opportunity to explain any areas of concern or criminal records or convictions before making a decision on employment of the candidate.
- 5.5.1 If a candidate will no longer be considered for a position based on the background check results and the subsequent consideration of the information, the candidate will be informed in writing with a copy of the background check report. The written notification will include a specified period of time in which the candidate may respond, which will be no less than five (5) calendar days.
 - 5.5.1.1 If the candidate fails to respond within the specified time period, a second letter informing the candidate that he or she is no longer being considered for the position will be issued.
 - 5.5.1.2 If the candidate responds within the specified time period, a review of any appeal submitted by the candidate challenging the accuracy of information contained in the report will be conducted.
- 5.6 Confidentiality:** Records gathered as a result of a background screening check are a confidential part of an employee's personnel file. Human Resources will keep such records in files separately from the individual's general personnel file. The records related to the background screening check will include:
- 5.6.1 Authorization, Consent and Release forms;
 - 5.6.2 Information collected from the check;
 - 5.6.3 An analysis of any criminal activity that substantially relates to the position
 - 5.6.4 The decision made if criminal activity substantially relates to the position; and,

5.6.5 Correspondence related to criminal background screening check.

5.6.6 Any records related to a candidate or an employee must be returned to Human Resources and will be maintained in accordance with Delaware State University's records retention schedule.

6. Responsibility

The Office of Human Resources in conjunction with the hiring department shall notify all prospective employees and volunteers of this policy and work to resolve compliance issues.

7. Notices

Background checks will be used solely to verify and evaluate a candidates' eligibility to be engaged in a work capacity at DSU. Background checks will not be used to discriminate on the basis of race, color, national origin, ancestry, religious creed, gender, disability or handicap, age, veteran's status, gender identity or sexual orientation.

Nothing herein is intended to contradict or lessen application of applicable federal or state laws or regulations.

Delaware State University reserves the right to amend this policy at any time without prior notice.

8. References, Related Laws, Guidelines and Policies

Title VII of the Civil Rights Act of 1964

15 U.S.C. §1681 et seq. - Fair Credit Reporting Act (FCRA)