



Background Check Policy

Effective Date: August 12, 2014

Approval: January 1, 2015;
University President

Maintenance of Policy: Office of
Legal Affairs

PURPOSE: To describe the terms and conditions under which background checks are conducted. The University of Dayton (“University”) has an obligation to its students, faculty, staff, and visitors to conduct its operations and maintain its facilities in a manner that provides reasonable safety. Background checks serve as an important part of furthering these goals.

SCOPE: University employees, prospective employees, certain non-employees including contractors and volunteers, and graduate, undergraduate, and prospective students.

DEFINITIONS:

- (a) “Background Check” Any or all parts of the candidate’s employment, education, criminal, sex and violent offender, credit and license history. The nature and scope of the background check will be determined by the University and will be appropriate to the position. (Note: The Hiring Committee for all job searches is expected to call employment references.)
- (b) “Consumer Report” Any communication of information by a Consumer Reporting Agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, or personal characteristics. This may include background check information such as criminal history, sex offender registry checks, motor vehicle record checks, educational checks, etc.
- (c) “Consumer Report Agency” Any person or entity which regularly engages in the practice of assembling or evaluating consumer credit information, 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 the University to conduct Background Checks.

REFERENCE DOCUMENTS:

1. University of Dayton Children on Campus and Working with Minors Policy
2. Fair Credit Reporting Act
3. UD Student Handbook, University Code of Conduct
4. Staff Corrective Action Policy
5. Ohio Revised Code, Chapter 3319
6. Equal Employment Opportunity Commission Enforcement Guidance No. 915.002, “Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000, et seq. (April 25, 2012)

POLICY HISTORY:

- Approved in its original form: August 12, 2014;
- Approved as amended January 1, 2015

Background Check Policy, (continued)

DEFINITIONS (continued):

- (d) “Criminal History Check” Report of the individual’s criminal convictions in any jurisdiction where he or she has resided or where he or she currently resides.
- (e) “Employee” Considered to be any person whose wages are paid directly by the University, whether full-or part-time and regardless of whether the position is benefits-eligible. This includes both faculty and staff but does not include student employees, except for student employees working in security-sensitive positions.
- (f) “Enhanced Background Check” Conducted for those seeking certain positions, special appointments, or particular security clearance within the University. Includes request for information beyond that requested through a Standard Background Check.
- (g) “Fingerprint-based Background Check” A background check that uses the impressions of an individual’s fingerprints coupled with a survey of the Ohio Bureau of Criminal Investigation records and/or Federal Bureau of Investigation records to compile information regarding an individual’s criminal background.
- (h) “Minor” Persons under the age of eighteen (18) who are not enrolled or accepted for enrollment at the University as a student.
- (i) “Paid non-employees” Contractors, visiting scholars who receive a stipend, visiting researchers and consultants who conduct their work or services on University premises or who represent the University at non-University locations, and external organizations who use University facilities/property. Such individuals receive payment either from the University (such as through an independent contractor relationship) or a third-party.
- (j) “Public Safety Background Check” Conducted for those seeking employment with the Department of Public Safety. Such checks may include information as to one’s general reputation, character, personal characteristics, mode of living, work habits, job performance and experience along with reasons for termination of past employment from previous employers. The information obtained may include, but is not limited to: social security number verifications; credit reports; criminal records checks; public court records checks; driving records checks; educational records checks; employment verifications; personal and professional references checks; licensing and certification records checks; drug testing results; polygraph testing; etc. The type of information requested when conducting a Department of Public Safety background check may change from time to time based on the University’s discretion or best practices.
- (k) “Security-Sensitive Positions” Positions in which the individual has access to a master key to all/majority of facilities within buildings, residences or other on-site or off-site facilities, or works in an area of the institution which has been designated as a security-sensitive area, facility or program. A unit or department may determine that other positions are “security-sensitive,” such as positions where the individual has direct responsibility for the care and safety of minors, animals, controlled substances, hazardous waste or sensitive data.
- (l) “Sex and Violent Offender Registry Check” A national search to verify that the selected individual does not have undisclosed convictions of certain sex and violent crimes.
- (m) “Standard background check” Requests for background information from reporting agencies that may include information as to one’s general reputation, character, personal characteristics, mode of living, work habits, job

Background Check Policy, (continued)

DEFINITIONS (continued):

performance and experience along with reasons for termination of past employment from previous employers. The information obtained may include, but are not limited to: social security number verifications; credit reports; criminal records checks; public court records checks; driving records checks; educational records checks; employment verifications; personal and professional references checks; licensing and certification records checks; and drug testing results. The type of information requested when conducting a Standard background check may change from time to time based on the University's discretion and/or best practices.

- (n) "Successful background check" A background check of any kind that returns no criminal convictions or incidents that bear a demonstrable relationship to successful performance of the position being sought, or the work or service being performed. Assessment of whether the results of a background check are job-related and necessitate a candidate's exclusion from consideration are made by the Office of Human Resources (for employees, prospective employees, unpaid non-employees, and paid non-employees), the Office of the Provost (for faculty), the Department of Public Safety (for prospective employees or candidates for employment in the Department of Public Safety), or the Office of Legal Affairs in conjunction with the person(s) in charge of a particular program (for Authorized Adults and any other individuals not addressed by the prior three categories).
- (o) "Unpaid Non-employees" Volunteers, interns and other individuals who provide services on campus without pay.
- (p) "Visiting Scholars" Academic members of other institutions whose interaction at the University goes beyond the definition of a general visitor due to: (1) being provided with financial support (beyond honorarium) or administrative support such as housing, wages (whether paid directly to the individual or to their "home" institution), visa sponsorship, computer network access, office space, key access, etc.; (2) interacting with (conducting research, lab work, etc.) or teaching students for a period in excess of ten consecutive business days; (3) working with minors covered by "Children on Campus and Working with Minors"; or (4) working in a security-sensitive position.
- (q) "Volunteers" Individuals who offer their services without cost to or compensation by the University for civic reasons and whose services are not typically performed by University employees. Examples include serving as a tourist guide at a University museum or educational facility, working on a University advisory or development committee, or otherwise performing duties that are of benefit to the University's teaching, research, and/or public service missions.

POLICY:

I. Policy

In conducting background checks for various individuals (or having such checks conducted on its behalf), assessing the results of background checks or requiring background checks, it is the University's policy to comply with all applicable federal and state laws, regulations and guidance.

Background checks will be conducted for any individual (those under the age of eighteen (18) require parental consent), paid or unpaid, engaged by the University in any service capacity in compliance with the following:

Background Check Policy, (continued)

POLICY (continued):

Background checks will be used to evaluate candidates' eligibility to be engaged in any work or service capacity by the University, and will not be used to discriminate on the basis of age, race, color, creed, religion, ancestry, national or ethnic origin, sex/gender, sexual orientation, disability, genetic information, military status, veteran status, familial status or any other protected category under applicable local, state or federal law, ordinance or regulation.

Adverse disclosures and/or findings will not automatically disqualify an individual from employment, employment consideration, or eligibility to be engaged in any work or service capacity by the University. The University will consider the nature and gravity of the offense(s); time since conviction; completion of sentence or any other remediation; relevance to the position for which the candidate is being considered, the position the employee is performing, or the position for which the individual is offering his or her services; and discrepancies between the background check and what the candidate/employee self-reported.

Background checks for employment decisions at the University will be facilitated by the Office of Human Resources or the Department of Public Safety based on the position description, job responsibilities or other service requirements or expectations. A successful background check must be completed prior to the first day of work/engagement with the University in the position identified. Any exceptions to this pre-engagement background check must be approved in consultation with the Office of Human Resources or Department of Public Safety, as applicable.

Individuals who undergo background checks do so at their own risk. That is, they may face adverse action should negative information be listed on their results. For example, a current University employee who voluntarily submits to a background check (for purposes of a higher-security job assignment or a particular activity) could face adjustments in his or her University employment should negative information related to job duties be disclosed. A University student who voluntarily assents to a background check could be subjected to a code of conduct proceeding if certain information is obtained during a background investigation. Further, any individual who undergoes a background check should be aware that the results may be shared with the University's Threat Assessment Team, Department of Public Safety or other teams / departments that tend to security issues, should such referral be deemed appropriate.

The University, in its sole discretion, retains the right to require a background check in any and all cases. The minimum process to be followed in conducting background checks is set forth in Appendix B.

II. Background Checks Conducted by the Office of Human Resources

Unless a special circumstance identified in Section IV applies, the Office of Human Resources will perform background checks in the following circumstances for the following individuals in compliance with this policy and determine whether the results are acceptable, consistent with the process outlined in Appendix B.

A. "Standard" Background Checks

1. Prospective Employees

Prospective employees or candidates for employment will be informed that any offer of employment is contingent on a satisfactory background check that will be conducted by a consumer reporting agency for review by the University. Candidates for employment who fail to participate fully or who provide inaccurate information in a standard background check may have any offer for employment rescinded.

Background Check Policy, (continued)

POLICY (continued):

When an offer is rescinded, the candidate may not reapply for any University position until one year has passed since the candidate was notified of the adverse background check information. 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.

Executives or administrators hired through an executive search firm or staffing agency must complete either a 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.

A background check is required for all staff rehires that have been separated for longer than 90 days; the Office of Human Resources will determine whether a “separation” exists or whether an exception to the general 90-day rule is justified. The Office of the Provost will make such determinations for background checks on faculty members who have been separated and “off contract” from the University for longer than 90 days.

2. Unpaid Non-employees and Paid Non-employees

Unpaid non-employees and paid non-employees must undergo a standard background check if they require University building access; perform their services alone/unchaperoned in University buildings for significant periods of time; require systems access (*i.e.*, computer/IT access); are performing services on campus for a period of 90 days or longer; are visiting scholars; or are serving in a security-sensitive position. Such individuals can fulfill this background check requirement if their employer or agency can verify that they have undergone successful background checks (per the protocol of their respective employer or agency) that meet or exceed the background check standards of the University. Such third-party non-employees’ employer or agency must be able to furnish such records upon request. If they cannot verify such records, then standard background checks may be conducted on third-party non-employees at the discretion of the Office of Human Resources. Whether a background check meets or exceeds the standards of the University will be determined by the Office of Legal Affairs in coordination with other University offices, as appropriate.

B. “Enhanced” Background Checks

From time to time, circumstances may arise on campus that require more information—such as by additional testing or screening ~ than is provided by a Standard Background Check. Those circumstances may depend on job description, responsibilities and location; for example, University of Dayton Research Institute personnel working with any government unit may be subject to additional requirements in compliance with the policy and procedure of the host site, government contractor, supervising unit, or University department. Another example is that the University may have a partnership with an entity where University employees or students may work at that entity’s premises, but that entity requires stricter testing for access to its premises. Such circumstances will be handled on a case-by-case basis by the Office of Human Resources and may include the assistance of the Office of Contracts and Grants (particularly for government-related security clearances), all in cooperation with the host site, contractor, unit or department, as may be necessary.

Background Check Policy, (continued)

POLICY (continued):

III. Background Checks Conducted by the Department of Public Safety

A. Prospective Department of Public Safety Employees

Prospective employees or candidates for employment in the Department of Public Safety will be informed that any offer of employment is contingent on a satisfactory Public Safety Background Check. The Department of Public Safety will determine whether the background test results are acceptable, consistent with the process outlined in Appendix B.

Candidates for employment who fail to participate fully or who provide inaccurate information in a background check may 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.

B. Authorized Adults

“Authorized Adults,” as defined in the University’s “Children on Campus and Working with Minors Policy” and who may be University students, employees or non-employees, must undergo a fingerprint-based background check annually if (a) they are involved in, will be present at or have access to a University-sponsored program or non-University-sponsored program on campus; (b) the program includes overnight stays for minors; and (c) their obligations, assignments or services for the program include being present during the overnight stay portion of the program (e.g., a camp counselor). Exceptions to this requirement will be considered according to Section IV of the “Children on Campus and Working with Minors Policy.” Whether adverse results impact the minor’s safety or ability of the Authorized Adult to participate in the program involving minors will be determined by the person in charge of the program in conjunction with the Office of Legal Affairs.

Persons undergoing fingerprint-based background checks in order to participate in a program involving minors voluntarily undergo such checks and assume the risk and consequences should the results indicate negative information reasonably related to employment duties or student status (e.g., a violation of the University’s Code of Conduct for students). Depending on the results, the person in charge of the program and Office of Legal Affairs may determine to forward certain information to the Office of Human Resources (if the Authorized Adult is a staff employee); the Office of the Provost (if the Authorized Adult is a faculty member); or the Division of Student Development (if the Authorized Adult is a student). An Authorized Adult who is a non-employee and can verify that he or she has undergone a successful criminal background check within a year of the program involving minors, where in the discretion of the Office of Legal Affairs that check is comparable to the standard background check or fingerprint-based check conducted by or on behalf of the University, does not need to undergo the fingerprint-based check identified in this section to serve as an overnight chaperone of a University-sponsored or non-University-sponsored program on campus. If a non-employee cannot verify such records, then a successful fingerprint-based background check is required in order to become an Authorized Adult.

Background Check Policy, (continued)

POLICY (continued):

C. Fingerprinting Services for General University Needs

The Department of Public Safety may also provide fingerprinting or fingerprint-based background check services to qualified individuals within the University community. To utilize the fingerprinting services, one must have (1) a current relationship with the University (including undergraduate and graduate students, faculty and staff members) and (2) a bona fide need for such services related to one's position with the University (i.e. field placement, state licensure, security clearance verification). The Department of Public Safety reserves the right to determine what constitutes a "bona fide need." Such results will be delivered to the requesting agency or department, or directly to the individual, depending on the specific circumstance.

For more information about Fingerprinting Services please contact the Department of Public Safety via the contact information listed in Appendix A.

IV. Special Circumstances and Events

A. Heightened Security Clearance or Recent Verification

For individuals who have recently been authorized or cleared for a heightened government or other security clearance, the requirements for which meet or exceed those of the University's Standard background check, a University-initiated background check may still be required at the discretion of the Office of Human Resources and the Department of Public Safety.

B. Student Applicants

At the discretion of a University admissions office, background checks may be conducted for applicants to undergraduate or graduate programs who self-disclose certain criminal or misdemeanor convictions, to verify information that becomes available to the University, or to assess or gather information specific to a program's unique requirements.

C. Other Unique Circumstances

Situations not addressed elsewhere in this policy may arise where a University department/unit determines a need to perform background checks for individuals seeking a particular relationship with the department/unit, and for efficiency or other reasons, that department/unit may desire to manage the background check process itself. In such circumstances, that University department/unit may conduct and manage the background check process, so long as it obtains approval for that process from the Office of Legal Affairs with the input of the Office of Human Resources or the Department of Public Safety, depending on the type of background check at issue, and so long as it conducts such process consistent with the minimum process set forth in Appendix B.

APPENDIX A
To
Background Check Policy

Contact Information

Office of Human Resources

St. Mary's Hall, Rm 118
Dayton, Ohio 45469-1614
(937) 229-2541
hr@udayton.edu

Department of Public Safety

College Park Center, Rm 195
1529 Brown Street
Dayton, Ohio 45469-2914
(937) 229-2131
publicsafety@udayton.edu

Office of Legal Affairs

St. Mary's Hall, Rm 400
Dayton, Ohio 45469-1660
(937) 229-4333
legalaffairs@udayton.edu

APPENDIX B

To

Background Check Policy

Process for Background Checks

1. The subject of the background check will be required to complete a consent form authorizing the University, or an entity acting on behalf of the University, to complete the background check process.
2. The University will provide the subject of any background check access to a copy of his or her background check report upon request, regardless of outcome and without charge to the candidate. In cases where information in the background check report will result in an adverse hiring decision, the University will provide a copy of the report to the candidate without his or her request.
3. When a finding adversely impacts employment eligibility, the candidate will be notified and may be withdrawn from employment consideration.
4. In cases in which information in a Consumer Report, such as a background check showing criminal convictions affecting the candidate's ability to perform the specific job in question, will result in an adverse employment decision, the University will provide the candidate with all required notifications pursuant to the Fair Credit Reporting Act and other applicable law(s).
5. For background checks conducted by Public Safety for Authorized Adults participating in the overnight-stay component of a program involving minors, if adverse findings result from such a check, Public Safety will immediately send those results to the Office of Legal Affairs. The Office of Legal Affairs in turn will coordinate with the Office of the Provost, the Office of Human Resources or the Division of Student Development, as appropriate, to determine next steps. Adverse results are not to be shared with the manager of the minors program.

Note: The Hiring Committee for all job searches is expected to call employment references. Additionally, the costs associated with conducting any fingerprint-based background checks required by this policy for "Authorized Adults" in a program involving minors shall be borne (or assessed, collected or otherwise covered) by the University unit sponsoring the program.

This process may be modified upon the agreement of the Office of Human Resources and the Department of Public Safety, in consultation with the Office of Legal Affairs. Minor modifications to process that do not materially jeopardize the fairness or legal rights owed to any individual may be made at the discretion of the Office of Human Resources and the Department of Public Safety.