



# KENTUCKY STATE UNIVERSITY POLICIES AND PROCEDURES

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**POLICY TITLE:**

**Background Check Policy**

**VOLUME, SECTION & NUMBER:**

**5.2.2**

**ENTITIES AFFECTED:**

**Students**

**Faculty**

**Staff**

**Volunteers**

**ADMINISTRATIVE AUTHORITY:**

**Office of Human Resources**

**Office of General Counsel**

**Department of Finance & Business Affairs**

**APPROVED BY:**

**Kentucky State University Board of Regents**

**EFFECTIVE DATE:**

**December 18, 2023**

**REVISED FROM:**

**Background Checks Policy**

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**POLICY STATEMENT:**

KRS 164.281 requires Kentucky State University ("University" or "KSU") to obtain criminal history background checks on all offerees, internal and external, for positions of employment with the University.

No candidate for a position shall commence employment until a satisfactory criminal background check has been received by the University's Office of Human Resources (OHR) and authorization is provided by the appropriate OHR personnel.

KRS 164.281 also applies to all individuals performing volunteer work on behalf of KSU, and the University reserves the right to conduct criminal background checks on any volunteers.

## **DEFINITIONS:**

### **Applicant**

A person who expresses an interest in an employment position with the University and whom the University considers as qualified for the position.

### **Contingent Employment Offer**

An offer of employment that is conditioned on the completion of a successful criminal background investigation. The contingent offer will not become a final and clear offer until the background check process is complete and the hiring official is notified.

### **Falsification**

Failure to fully and accurately record required information on the employment application. Required information includes any misdemeanor or felony convictions, other than minimal traffic violations.

### **Hiring Official**

An authorized representative/official of the University who has the discretion to make an offer of employment to an applicant.

## **PROCEDURES:**

### **Completing an Application**

An applicant must submit an electronic application for employment through the University's online employment system. The application will ask the applicant to fully disclose any misdemeanor or felony convictions, other than minimal traffic violations. The application will also advise the applicant that a criminal background check will be conducted and that any offer of employment will be contingent upon the receipt of a background check that is satisfactory to the University.

Each employment application shall state the following: "For this type of employment, state law requires a state and national criminal history background check as a condition of employment."

For certain volunteer positions, KSU may provide prospective volunteers the following statement: "For this type of volunteer work, the University requires a state and national criminal history background check."

### **Application Disclosure and Background**

All University employment applications will state that falsification or non-disclosure will be handled in accordance with the University's policies and procedures, which may include actions up to and including termination from employment or the withdrawal of an employment offer. The applicant must authorize the background check. This consent is given electronically as part of the application process.

### **Conducting a Background Check**

The University will use a third-party administrator to conduct background checks. KSU requires that all background checks are obtained and handled in compliance with applicable federal and state statutes, such as the Fair Credit Reporting Act. KSU reserves the right to make the sole determination concerning information or any employment decision arising out of the background check. All criminal background checks are conducted

post-offer (contingent employment offer). However, pursuant to Title VII of the Civil Rights Act and EEOC guidance, criminal records cannot be used as a basis for denying employment unless an exclusion is deemed job related and consistent with business necessity.

### **Offers of Employment**

When notified by a hiring official that an applicant has been recommended for hire, OHR staff members will make an offer of employment to the applicant. All offers of employment are made in writing and include the following statement: "This offer is contingent upon the completion of a background investigation that is satisfactory to the University." If circumstances require that the offer be communicated verbally, the hiring official must inform the candidate that the offer is contingent upon the successful result of the required background check. The OHR will then request that the University's third-party administrator conduct a criminal background check on the selected applicant.

### **Evaluation of Background Check Results**

The results of the criminal background check will be sent directly to the designated personnel in the OHR.

OHR personnel will review the criminal background report. If any criminal convictions are noted, the OHR will consult with the Office of General Counsel (OGC), as needed, for a final determination on how to proceed.

In making this determination, the following factors must be considered: the nature and gravity of the conviction, the length of time that has passed since the conviction occurred and/or the sentence was completed, the nature of the employment position being sought, and any evidence of rehabilitation.

For purposes of this procedure, the term "conviction" will be interpreted broadly and will include pleas of no contest, deferred adjudications, and similar dispositions. If a criminal background check report indicates pending criminal charges that, if a conviction resulted, would result in exclusion from employment, the candidate will be excluded from employment until final disposition of the charge(s).

Arrest records, juvenile adjudications, expunged matters, and sealed records will not be considered when determining whether a criminal record exclusion is warranted.

### **Satisfactory Results**

If the criminal background check is satisfactory, the OHR will notify the hiring official that the candidate is approved to begin employment.

### **Unsatisfactory Results**

If a background check is unsatisfactory, the OHR will notify the hiring official. The Office of Human Resources will then contact the applicant to inform him or her that KSU is rescinding its contingent offer of employment and that he or she will receive written notification that the University's third-party administrator will send a summary of the applicant's rights under the Fair Credit Reporting Act.

The third-party administrator will also provide the applicant the opportunity to review a copy of the report, which will inform him or her of his or her rights to dispute inaccurate information. The OHR will review any additional information provided by the candidate to dispute the accuracy of the criminal background check and, upon consultation with the OGC, will make a determination of any action on the information.

### **Disqualified Applicants**

Applicants who commit acts of falsification or non-disclosure are deemed disqualified and shall be excluded from submitting another application for employment for one (1) year.

## **STATUTORY OR REGULATORY REFERENCES:**

KRS 164.281

KRS 17.500

KRS 439.3401

Title VII of the Civil Rights Act

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