# NOTICE OF AMENDED REGULATION

**February 5, 2021**

 **BOARD OF GOVERNORS**

 Division of Universities

 University of North Florida

 **REGULATION TITLE:**

 Background Checks

 **REGULATION NO.:**

 4.0080R

 **SUMMARY:**

 The proposed revisions update the regulation for improved readability, greater clarity on the use of background checks for criminal and credit history pursuant to the Fair Credit Reporting Act, and further detail on Level II background checks for individuals serving vulnerable populations.  Individuals who are in Positions of Trust will also now be required to undergo a Level 2 background check every five (5) years.

 **FULL TEXT:**

 The full text of the regulation being proposed is attached.

 **AUTHORITY:**

 Resolution of the Florida Board of Governors dated January 7, 2003

 Florida Board of Governors Regulation 1.001(5)

 Florida Statutes Ch. 435

 **UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:**

 Carrie Guth, Assistant Vice President, Chief Human Resource Officer

 **INDIVIDUAL TO BE CONTACTED REGARDING THE PROPOSED REVISED REGULATION:**

 Stephanie Howell, Paralegal, Office of the General Counsel, showell@unf.edu, phone (904)620-2828; fax (904)620-1044; Building 1, Room 2100, 1 UNF Drive, Jacksonville, FL 32224.

 ***Any comments regarding the amendment of the regulation must be sent in writing to the contact person on or before Friday, February 19, 2021, to receive full consideration.***

 Regulation

**Regulation Number**: 4.0080R

**Effective Date**: 2/1/2006 **Revised Date**: TBD

# Subject: Background Checks

**Responsible Division/Department**: Administration & Finance/Human Resources

**Check what type of Regulation this is:**

[ ] New Regulation

[x] Major Revision of Existing Regulation

[ ] Minor/Technical Revision of Existing Regulation

[ ] Reaffirmation of Existing Regulation

[ ] Repeal of Existing Regulation

**NOTE: THIS REGULATION IS UNDERGOING REVIEW AS UNF IS CURRENTLY UNABLE TO CONDUCT LEVEL II SCREENINGS FOR ALL TYPES OF BACKGROUND CHECKS DESCRIBED IN THIS REGULATION. UNF WILL BE PERFORMING ALTERNATIVE BACKGROUND SCREENINGS UNTIL FURTHER NOTICE.**

**I. OBJECTIVE & PURPOSE**

In support of the University’s effort to maintain and foster safety and security of students, faculty, and staff, the University requires pre-employment background checks, pursuant to the procedure in section 435, Florida Statutes. This may include fingerprinting, through a vendor selected by the University, for all prospective faculty and staff including student employees who are hired to perform positions designated as a Position of Trust.  In some unique cases volunteers may be required to undergo a successful background check before being permitted to perform services on behalf of the University. Additionally, any current employee who occupies a Position of Trust as defined in this regulation, will be required to successfully undergo a Level 2 background check every five years as a condition of continued employment in such a position.

**II. STATEMENT OF REGULATION**

A.  Definitions

1. Background Check. The University may collect background information, including credit information for specified positions, on applicants and employees consistent with the Fair Credit Reporting Act (FCRA). Background checks may include criminal records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal), national sex offender registry check, social security, name, and prior employment verification. Positions that require operation of a motor vehicle may include a driver’s license/motor vehicle record check.

2. Credit Check. The University may collect credit information for specified positions, on applicants and employees consistent with the Fair Credit Reporting Act (FRCA). While credit checks for employment do not report credit scores, results may include names and addresses of current and previous employers, a record of credit and payment history, unpaid bills turned over to a collection agency, and other credit inquiries that have been made on the individual.

3. Level I Screening. Pursuant to F.S. 435.03 a Level I screening includes, but it not limited to

4. employment history checks, statewide criminal history through FDLE (Florida Department of Law Enforcement), a check of the Dru Sjodin National sex Offender Public Website, and may include local criminal records check through local law enforcement. 5. Level II Screening. Pursuant to F.S. 435.04 a Level II screening includes, but is not limited to, fingerprinting for statewide criminal history through FDLE (Florida Department of Law Enforcement), national criminal history records check through the FBI (Federal Bureau of Investigation), and may include local records checks through local law enforcement.

6. Minor. For purposes of this regulation, a “minor’ is a person under the age of eighteen (18) who is not enrolled or accepted for enrollment at UNF.

 7.Student Employee(s). For purposes of this regulation, the term “student employees” refers to any individual at the University whose primary status is that of a student including graduate assistants, graduate teaching assistants and graduate research assistants.

B. Position(s) of Trust. Pursuant to Florida Statute 110.1127, all persons and employees in such positions designated as Positions of Trust must undergo employment screening in accordance with F.S. 435, using Level II screening standards, including fingerprinting, as a condition of employment and continued employment. The University has designated Positions of Trust as follows:

a.Working with children/minors or vulnerable populations: responsibilities require unsupervised or significant access to vulnerable populations or abuse records as described in F.S. 110.1127 (i.e. positions in programs providing care to children, the developmentally disabled, or vulnerable adults for 15 hours or more per week.)

*Examples of settings with vulnerable populations include child care centers, summer and non-summer camps and other activities for minors, pre-college or enrichment programs and the Disability Resource Center. This category also includes employees who are not directly working in those units, but have unsupervised access to the unit when the vulnerable population is present. This category does not include faculty or instructional academic staff performing regular teaching, service, and research responsibilities unless these responsibilities include unsupervised or significant access to vulnerable populations.*

b. Accountable or who have access to cash, credit card sales or management of credit card processing, and demand deposits;

c. Ability to complete final processing of payroll or payroll corrections, investments, security access transactions or purchase orders;

d. Ability to process a payment, print or distribute checks;

e. Ability to update, prepare, generate or enter a transaction (refund, wire transfer, automatic clearing house transaction, vendor add/change or vendor address change);

f. Access to campus buildings, including residential housing facilities (assigned building master keys);

g. Access to surplus property;

h. Ability to access underlying codes/processing protocol supporting the University's ITS applications or complete, ITS security access transactions.

i. Access to Controlled Unclassified Information (CUI);

j. Executives, those holding regular or interim positions to include President, Provost, Vice President and Dean.

k. Persons working in the UNF Police Department.

C. Pre-employment Background Checks

Pre-employment background checks provides the University with critical information to make the best and most informed hiring decisions. All prospective faculty and staff will be offered employment contingent upon completion of a successful background check. Student employees will generally not be required to undergo a pre-employment background check unless they are hired to perform a position designated as a Position of Trust.

.  The standard background screening scope is seven (7) years due to FCRA regulations; however, convictions older than seven years provided by the County Criminal Records will be indicated on the background screening report. All pre-employment background checks will be centralized and funded through Human Resources unless otherwise specified by Human Resources. Determination of the type of background checks to be conducted will be made by Human Resources.

D. Background Checks for Current Employees

Employees who were hired by the University prior to the implementation of this regulation (2006) or did not undergo a pre-employment background check at the time of hire and have a change in status, for example moving from OPS (temporary employment) to USPS or A&P (regular employment) or full-time Faculty appointment to a part-time faculty or adjunct status will be provided this change in status contingent upon completion of a successful background check. Likewise, current employees who are promoted or who are reassigned to a Position of Trust or other position requiring a background check by law, will be offered the promotion or reassignment status contingent upon completion of a successful background check that is appropriate for the position’s new duties. Persons who are reassigned but do not successfully complete the required background check may be subject to termination of their employment.

1. Background checks for Positions of Trust

Employees, including student employees, occupying Positions of Trust must also undergo a successful Level 2 background check, including fingerprinting every five (5) years as a condition of continued employment.2. Background Checks for Camps and Other Programs Involving Minors

In accordance with F.S. 402.302 and 435.04, Level II screenings are required for the employees and volunteers of all University-sponsored and Non-sponsored Affiliate camps, or other programs involving minors. Each such employee and volunteer must also submit a notarized Affidavit of Good Moral Character prior to employment/volunteering to the camp or program director.

E. University Standards.

Designated Office of Human Resources staff members review the information obtained when a background or credit check is conducted against the University’s established screening standards and determines whether the records are grounds for denying employment. Access to this information is strictly limited to employees of the Office of Human Resources and others on a need-to-know basis to ensure that the privacy of the candidate is respected.

1. The results of each background check will be reviewed against the Level II screening standards stipulated in F.S. 435.04 and in accordance with Equal Employment Opportunity Commission (EEOC) guidelines, to determine whether the records are grounds for denying employment with the following considerations:
a. The nature and gravity of the offense; and
b. The time period that has elapsed since the conviction; and/or completion of the sentence, and
c. The nature of the job for which the applicant is applying (i.e.–those who apply for a position requiring operation of a vehicle, may not be considered based on a poor driving record or DUI conviction): and
d. Reoccurrence and pattern of criminal behavior; and
e. Truthfulness of the applicant in disclosing the offense(s) (i.e – those who are not honest in disclosing criminal histories will generally not be considered for employment); and
f. Information supplied by the applicant about the offense(s).

1. A background check result that does not meet University standards for one position will not prohibit applicants from applying for and being considered for other positions at the University. If the results of the background/credit check(s) do not meet University standards, the Office of Human Resources will comply with the required FCRA notification, ensuring that the applicant is provided with a Statement of Consumer Rights; provide the opportunity for the individual to review a copy of their background/credit report(s); and advise of their rights to dispute inaccurate information.

3. . Information gathered as a part of the background check, other than exempt information by law, is public record.

4.The results of each credit check will be reviewed against the following standards, to determine whether the records are grounds for denying employment:

1. Applicants with bad debt, as defined below, will not be considered for positions that involve the handling of credit cards, cash or other company funds. If the credit check reveals that the applicant for hire or transfer has a history of bad debt, the individual may be disqualified from the position.
2. "Bad debt" is defined as debt that has been referred for collection, has a balance past due more than 60 days or has been written or charged off by the creditor. Bad debt is not considered a risk if it is more than five years old, the result of the applicant's student loan obligations, or incurred through extensive medical care for the applicant or his or her immediate family members or dependents. Bad debt is considered a risk if it exceeds 10 percent of the salary for the position being filled, regardless of the time period in which the debt was incurred (excluding medical debt and student loans).

 F. Request for Reconsideration of Background Check Decisions

An applicant, through the Office of Human Resources, may request reconsideration of a decision not to hire the individual based upon the results of a background check. A request for reconsideration will only be granted when the background check results are in dispute. Current employees who occupy Positions of Trust may also request reconsideration of background check results through the Office of Human Resources. The request for reconsideration process can be reviewed on the Office of Human Resources website at <https://www.unf.edu/hr/employment/Pre-Employment> Background Checks.aspx.

G. When a Background Check will not be Required

1. Individuals who undergo a pre-employment check and have a change in status, for example from an OPS to USPS or A&P position and maintain continuous employment with the University, will not have to undergo another background check prior to the change in status unless the new status is considered a Position of Trust as described in section II, A, 7 above.

2. Promotions of faculty from assistant professor to associate professor and associate professor to full professor are not considered a change in status where a background check is required. Similarly, if an in-unit faculty member is promoted to a faculty administrative position, no background check will be required unless the new status is considered a “position of trust” as described in section II, A, 7 above.

3. If a current employee separates from the University but resumes employment within less than one (1) year, the person will not be required to undergo a pre-employment background check.

H. University Responsibilities.

The University may collect background information, including credit information for specified positions, on applicants and employees consistent with the Fair Credit Reporting Act (FCRA). In order to obtain a background check or credit report, FCRA requires organizations, including the University, to obtain a candidate’s written authorization. The University will:

1. Certify to the consumer reporting agency that the employer is in compliance with the FCRA and will not misuse the information it receives.

2. Disclose to the applicant or employee, on a separate form, its plans to obtain a consumer or investigative consumer report and that the information received will be used solely for employment purposes.

3. Obtain written authorization from the applicant or employee. This authorization is obtained via the online job application and via the third-party vendor’s screening initiation process.

4. Inform the individual of his or her right to request additional information on the nature of the report and the means through which such information may be obtained.

5. Inform the applicant that the report will include information about the individual’s character, general reputation, personal characteristics, etc.

6. Provide the individual with a summary of his or her rights under the FCRA.

I. Florida Department of Law Enforcement (FDLE) Sexual Predator and Sexual Offender Registry

The FDLE sexual predator and sexual offender registry can be accessed to obtain sexual predator and sexual offender public information. The database is accessible online through the University Police Department (UPD) website (<http://www.unf.edu/upd>) or the Florida Department of Law Enforcement (FDLE) website (<https://offender.fdle.state.fl.us/offender/offenderSearchNav.do?link=advanced>) or by calling 1-888-FL-PREDATOR (1-888-357-7332). The University Police Department may compare the registry with faculty, staff, volunteers, and students as part of the University’s commitment to campus safety. If the University learns that an individual is on the registry, the University Police Department will notify the Office of Human Resources and Dean of Students to determine appropriate steps for campus safety.

*NOTE:  As set forth in the Statement of Ethical Conduct 1.0020P, all faculty and staff are required to report alleged violations of law including arrests by a law enforcement official that could impact the individual’s temporary or continued performance of their job duties.*

*References: Florida Board of Governors Regulation 1.001(5) and relevant Collective Bargaining Agreements ; History: NEW 2-1-06; Repealed 6C9-4 Adopted by the University of North Florida Board of Trustees as part of the University’s Personnel Program on January 26, 2006.  Formerly 4.005; Amended and approved by the BOT June 10, 2014. Amended and approved by the BOT January 12, 2016. Amended and approved by the BOT \_\_\_\_\_\_\_\_\_\_\_\_\_.*

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