



Policy Number 3.3.1

Chapter: Administration

Title: Use of Criminal Background Checks for Employment Purposes

Division/Department: Administration/Human Resources

Policy Administrator: Director of Human Resources

Adoption Date: 10/13/1997

Revision Dates: 3/14/2012, 5/17/2023

1. PURPOSE

State and federal laws have been enacted to promote fairness and equity in the hiring process, including laws that govern the use of criminal background checks in making employment decisions. The Board of Directors of the Auraria Higher Education Center desires to maintain compliance with these laws; to assure that prospective employees, current employees, and certain volunteers are treated fairly; and to provide a safe environment for the campus community. This policy establishes when criminal background checks will be conducted and the processes that will be followed to assure that candidates and employees are treated fairly.

2. DEFINITIONS

- 2.1. **Background Check:** The process of gathering and reviewing information furnished by a criminal justice agency or third-party vendor in the business of obtaining and providing information relating to an individual's criminal convictions.
- 2.2. **Conviction:** A guilty verdict, a guilty plea or a plea of nolo contendere to a felony or other offense involving moral turpitude. A deferred judgment is not a conviction.
- 2.3. **Final Applicant:** An individual who is considered a prospective employee or volunteer, or a current employee who is being considered for promotion, and to whom a conditional offer of employment or promotion will be made.
- 2.4. **Hiring Authority:** The individual in an AHEC division or department having the authority to make hiring decisions.

- 2.5. Moral Turpitude: Moral turpitude includes:
 - 2.5.1. Dishonesty, fraud, deceit, theft, embezzlement, bribery, perjury, or misrepresentation.
 - 2.5.2. Deliberate violence.
 - 2.5.3. Sex offenses, and any act requiring registration as a sex offender.
 - 2.5.4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Colorado Revised Statutes (C.R.S.) § 18-18-405.
 - 2.5.5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period.
 - 2.5.6. Acts constituting offenses involving family relations under C.R.S. Title 18, Article 6.
 - 2.5.7. Acts constituting an offense of obstructing public justice under C.R.S. Title 18, Article 8.

3. POLICY

- 3.1 AHEC will not state in a position announcement that a person with a Conviction may not apply, and will not inquire into, or require disclosure of, a Conviction in application materials. However, this section 3.1 does not apply if a law or regulation provides that a Background Check must be conducted for a specific position, or that a person with a certain Conviction may not hold such position.
- 3.2 All Final Applicants are subject to a Background Check. Hiring Authorities are responsible for initiating a Background Check through the Human Resources Department.
- 3.3 The Human Resources Department shall have general responsibility for conducting Background Checks. However, the Early Learning Center and the Auraria Campus Police Department shall be responsible for conducting additional background checks required by law for positions within their own departments.
- 3.4 When a Background Check reveals that a Final Applicant has pending criminal charges, the pendency of those charges may be used as a factor in making an employment decision.
- 3.5 When a Background Check reveals that a Final Applicant has a Conviction, and the following conditions are met, the Conviction may be used as a factor in making an employment decision:

- 3.5.1 The record of Conviction shows that it is final (meaning that a verdict was entered, or other disposition of the case was made).
- 3.5.2 The record of Conviction does not show that the person convicted has been pardoned.
- 3.5.3 The record of Conviction has not been sealed or expunged.
- 3.5.4 No court has issued an order specifying that the Conviction may not be used in making an employment decision.
- 3.6 If a Conviction of a Final Applicant may be used in an employment decision, the Human Resources Department and the appropriate Hiring Authority will consider the following:
 - 3.6.1 The nature of the offense.
 - 3.6.2 The length of time since the Conviction.
 - 3.6.3 The bearing of the Conviction on the responsibilities of the position.
 - 3.6.4 The bearing of the Conviction on the health, safety and welfare of persons and safety of property on the Auraria Campus.
 - 3.6.5 Any information regarding the rehabilitation and good conduct of the Final Applicant.
- 3.7 Information related to the criminal record of a Final Applicant shall be kept confidential and shall only be released upon specific authorization by the Final Applicant or AHEC's General Counsel.
- 3.8 If an employment decision is taken that is adverse to the Final Applicant based on the results of a Background Check, Human Resources will follow a procedure consistent with the requirements of the Fair Credit Reporting Act. This includes the rights enumerated in the publication, "A Summary of Your Rights Under the Fair Credit Reporting Act," a copy of which will be provided to the Final Applicant.
- 3.9 Employment action shall not be effective until the Human Resources Department has notified the Hiring Authority that the Final Applicant has satisfactorily completed a Background Check.

4. APPROVAL AND ADOPTION

This Policy has been reviewed and approved by the Board of Directors for the Auraria Higher Education Center.

Date: May 17, 2023

Approved by: */s/ Tracy Huggins*
Chair of the Auraria Board