

### Regulation on Student Applicant Background Checks

I. Purpose. The purpose of this regulation is to establish procedures for conducting student applicant background checks. All University of North Carolina System (UNC System) constituent institutions will perform background checks on either (a) all applicants offered admission, or (b) all applicants offered admission who indicate their intent to attend, before the applicant may matriculate, as follows:

- A. The UNC Suspension and Expulsion Data Base
- B. The National Student Clearinghouse

A constituent institution may conduct these background checks on an applicant before deciding whether or not to offer the candidate admission.

II. UNC System constituent institutions will perform criminal background checks on applicants being considered for admission, applicants admitted, or applicants offered admission who have indicated their intent to attend, before the applicant matriculates, if the application and supporting materials contain one or more of the following triggers (or red flags):

- A. The application together with supporting material contains materially inconsistent answers that have not been satisfactorily explained;
- B. The applicant answers one or more of the following criminal background/discipline questions affirmatively or submits subsequent information indicating (1) pending criminal charges, (2) acceptance of responsibility for a crime, (3) criminal convictions, or (4) school disciplinary action, unless the affirmative answer or supporting material relates to a school disciplinary action that resulted from an offense that is remote in time:

1. Have you ever been found responsible for a disciplinary violation at any educational institution you have attended from 9<sup>th</sup> grade (or the equivalent) forward, related to behavioral misconduct that resulted in your long-term suspension (more than 10 consecutive days)?

Yes                      No

2. Excluding traffic infractions, have you ever been found guilty or convicted of a misdemeanor, felony, or other crime (including special or general court martial)?

Yes                      No

[Note, that you are not required to answer “yes” to this question, or provide an explanation if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise ordered by a court to be kept confidential.]

3. Do you have any criminal charges pending against you?                      Yes                      No

4. Excluding traffic violations, have you ever entered a plea of no contest or nolo contendere, or an Alford plea to a misdemeanor, felony, or other criminal charge; or received a deferred prosecution or prayer for judgment continued for such a charge; or otherwise accepted responsibility for such a crime?            Yes            No

[Note, that you are not required to answer “yes” to this question, or provide an explanation if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise ordered by a court to be kept confidential.]

C. The application omits one or more answers without an acceptable explanation for the omission;

D. The application has an unexplained time period since graduation from high school during which the applicant was not, for example, enrolled in higher education, enlisted in the military, or employed full-time; or

E. Any other reason sufficient to the constituent institution.

Constituent institutions are not required to perform criminal background checks on applicants who are younger than 16 years old at the time of the acceptance.

III. A constituent institution that is going to conduct a criminal background check must obtain the applicant’s consent, either in writing or electronically, to the criminal background check and to the use of the applicant’s social security number for purposes of the check. Alternatively, the constituent institution may provide instructions for the applicant to initiate the criminal background check directly through a specified vendor. If legally permissible, the constituent institution will offer as an alternative to allow a fingerprint check without using a social security number. The constituent institution or vendor consent will require the applicant to list the places the applicant has lived or gone to school outside North Carolina for more than six months in the last seven years at a time that the applicant was at least 16 years old.

IV. A constituent institution may either include the cost of conducting background checks in an increase to the general application fee or may charge the cost of criminal background checks to the applicant who is the subject of the check.

V. The scope of the criminal background check will depend on the residential history of the applicant:

A. For current North Carolina residents whose applications and release forms do not disclose more than six months out of North Carolina, a North Carolina criminal background check will be conducted.

B. For nonresidents and North Carolina residents whose applications or release forms disclose significant time outside North Carolina, a residence check will be conducted, and then a criminal background check will be conducted for all appropriate states unless the applicant opts for a national FBI fingerprint check.

C. For international students, a criminal background check of appropriate scope will be conducted.

VI. Students who are admitted within two weeks before classes begin and who are subject to having a criminal background check pursuant to section III., above, are allowed to be conditionally admitted and are allowed to matriculate pending the results of a criminal background check.

VII. The vendor or other entity conducting the criminal background check will provide the constituent institution with a list of applicants with no criminal record, and the constituent institution will have electronic or paper access to the information for the applicants whose check shows a positive criminal record.

VIII. If an applicant has a positive criminal or disciplinary record, the constituent institution must:

A. Compare the results of the checks to the application and supplemental information supplied by the applicant to determine discrepancies. If there are no discrepancies and if the constituent institution has made an individual determination that the applicant does not pose a significant threat to campus safety, and there is no additional information indicating that a decision to admit should be modified, the applicant may be admitted or a previous decision to admit may stand.

B. If there are discrepancies, or if there is information indicating that admission decision should be further examined, the constituent institution must provide the applicant an opportunity either to demonstrate that the report of criminal, disciplinary or other relevant history was erroneous (e.g. wrong person) or to explain the discrepancy.

C. If the report is determined to be accurate and there is a discrepancy between the reported information and the application or supporting material the applicant submitted, or there is additional information that amplifies the application information or otherwise indicates that the admission should be examined further:

1. The presumption is that the admission will be denied or withdrawn if the applicant has failed accurately to disclose relevant information in response to a question on the application. The burden is on the applicant to demonstrate that the omission or misinformation was the result of an honest mistake, that it was not intended to mislead, and that the applicant should be admitted in spite of the failure to disclose.

2. If the failure to disclose accurate information does not result in the denial of or withdrawal of the offer of admission, but there is information that draws the decision to admit into question, before the student may matriculate, the constituent institution must make an individual determination as to whether the nature of any crime committed or other behavior disclosed, together with other available information, suggests that the applicant will pose a significant threat to campus safety or that the applicant's behavior violates a graduate or professional school code of professional ethics. If the constituent institution determines that there is a significant threat, the admission must be denied or withdrawn. If not, the student may be admitted in accordance with the normal admission process.

IX. Each constituent institution must maintain a record of the kinds of background checks, if any, conducted on each applicant and the results of those checks. If an applicant's record shows a history of conviction of, guilty plea to, or acceptance of responsibility for a crime or a significant disciplinary sanction at another educational institution, the constituent institution must maintain a record of the process used to determine whether or not the student posed a significant threat to campus safety and of the basis for that determination.

X. Other Matters

- A. Effective Date. The requirements of this regulation will be in effect for fall 2022 admissions.
- B. Relation to State Laws. The foregoing regulation as adopted by the president is meant to supplement, and does not purport to supplant or modify, those statutory enactments, regulations, and policies which may govern the activities of public officials.