

UW-Madison Criminal Background Check Policy Update

Academic Staff Assembly
February 10, 2014

Presented by Office of Human Resources

Why

Revisions based on:

- Revised BOR policy
- UW-Madison Precollege Camps Policy

Who's Affected

- Primarily employees, volunteers, vendors, contactors and users/lessees of university lands/properties who have unsupervised **access to vulnerable populations**
- Vulnerable populations
 - patients in medical treatment
 - minors in precollege camps, children in campus childcare centers, pre-college enrichment programs (doesn't include minor UW students)

Key Policy Changes

- For those with access to vulnerable populations
 - Periodic recheck
 - Every 4 years
 - Every 2 years (precollege camps)
 - Required to report arrests, charges, and convictions (other than traffic violations that result in a fine) within 24 hours. Employees will be notified of requirement
- New employees requiring a background check will have a national database check

Continue to follow existing laws

- Wisconsin Caregiver Law
- Select Agents (Federal Laws)
- Fiduciary Responsibilities (State Law)
- Criminal Justice Data Access (State Law)
- Miscellaneous e.g. CDL, NRC, Police Officers

Criminal Background Check Results – Making a Decision - No Change

- State Fair Employment Act prohibits discriminating against prospective or current employees based on **pending criminal charges or convictions** unless the “pending criminal charge” or “conviction record” is determined to be “**substantially**” **related** to the “circumstances of the particular job.”
- Arrests (other than pending) or detention orders that did not result in convictions or pleas and expunged convictions cannot be considered.

Criminal Background Check Results – Making a Decision–No Change (cont'd)

- If criminal convictions or unresolved arrests/criminal charges are **not identified**, division takes no action –notifies employee being rechecked or proceeds with hire
- If convictions or unresolved arrests/criminal charges **are identified**, division makes a preliminary “substantial relationship” determination and submits to campus CBC committee (OED, OLA, CHR, APO) for review and decision

Criminal Background Check Results – Making a Decision–No Change (cont'd)

- If criminal record that is substantially related to job without mitigating factors:
 - For applicant:
 - Inform applicant he/she will not be hired
 - Provide appeal process
 - For current employee:
 - Review employment options, including:
 - Reassignment
 - Leave of absence
 - Dismissal

QUESTIONS
