

UNIVERSITY POLICY REGARDING STUDENT CRIMINAL BACKGROUND CHECKS

I. Policy

It is the policy of Fort Hays State University that prior to any student beginning a clinical experience required for successful completion of the student's academic program, the student must submit to a criminal background check when the background check is required by the clinical site or facility. The department in which the course of study at issue is offered may in its discretion require a background check of the student prior to the student's assignment to a clinical site, even if the site itself does not mandate that a background check be performed. The criminal background check will normally be as far in advance of the student's clinical experience as possible. However, at the discretion of the University, the criminal background check may be imposed as a condition of admittance into the academic program where the student will be required to engage in a clinical experience.

In addition, any university department may institute a practice of conducting background checks on students prior to admission to an academic program or at any other point during the program where the department determines there is a legitimate need and the student's background may disqualify them from future employment in the field. Such practice must be approved in advance by the University President or designee and must be applied equally to all students in the program.

II. Procedures

A. Timing and Scope

Unless determined otherwise by the applicable department, each background check of a student under this Policy will be paid for by the student. However, the department will provide guidance, direction, and recommendations to the student as to how the student can obtain a criminal background check. The matters to be researched in the background check, and the information sought by the check, will differ depending on the scope and extent of the check, and also on the entity performing the check. However, the recommended scope of a background check is:

- Social Security Number trace
- Criminal records in all county/state jurisdiction search for a seven year address history period
- Criminal records in all federal jurisdictions search for a seven year address history period
- Combine LIG/GSA report
- KCPD alert two system
- Multi-state sex offender registry
- Work verification for the last employer

B. Vendor

The vendor that will be used to perform the criminal background checks will normally be the vendor having an existing contract with the State of Kansas to provide such service.

C. Criteria for Evaluation

It is the student's responsibility to insure that the results of the background check will be provided to the faculty member in charge of the student's clinical experience, the chair of the department which houses the student's program of study, or other faculty or staff member appointed by the department to be responsible for the background checks "other responsible person"). The Chair of the department in which the academic program at issue is offered will determine in consultation with the faculty member in charge of the clinical program or other responsible person, if applicable whether the student is qualified for admission to the program or to participate in the clinical experience as the case may be. The standard by which the department will use to make this determination, will be developed by the department and communicated in writing to the students prior to the background check. The department will make this determination at its sole discretion and the student, as a prerequisite to obtaining the background check, will be required to sign a document acknowledging the discretion of the University in this regard, and providing the student's pledge to abide by the University's determination. This document will be developed by the department prior to implementing a practice of conducting background checks.

D. Appeal Procedure

In the event that a student is excluded from participating in the clinical experience or entry into a program as a result of the background check, the department will provide in writing to the student an initial determination, which will include the basis upon which the determination was made, and allow the student the opportunity to review and provide comment on any information contained in the background check. The notification of the initial determination will include a copy of the document "A Summary of Your Rights Under the Fair Credit Reporting Act," which can be found at www.fhsu.edu/personnel/background-checks/. The student has three business days after receiving the initial determination to appeal to the person making the initial determination. A decision on the appeal of the initial determination will be made within seven business days during which time the student has the opportunity to resolve any inaccuracies in the background check. In the event that the determination regarding the student's ability to participate in clinical exams does not change following the student's initial appeal, then the student may resort to the following process:

- 1) Within five business days after the final decision on the initial appeal, the student shall write a letter to the Department Chair specifically stating what aspects of the Department Chair's decision the student wishes to appeal, and specifically setting forth the student's position as to how he or she believes the initial decision is in error.

The Department Chair will then within five business days from receipt of the written appeal, set a time, date and place for a formal hearing before a committee composed of at least three faculty from the applicable department (the Departmental Background Check Committee). The student will be given the opportunity to appear in person and also have the assistance of one other person. Such representative will not be allowed to present any evidence or argue on the student's behalf, but will rather be available in an advisory capacity only. If requested by the student, an electronic record of the hearing will be made and the recording will be reduced to a written transcript.

A decision by the Departmental Background Check Committee will be made within five business days from the hearing and will be delivered to all concerned parties. The student may accept the decision of the Departmental Committee and in that instance the appeal procedure is completed, or the student may appeal in accordance with the procedures below.

- 2) In the event the student does not accept the decision of the Department Background Check Committee, the student may appeal in writing to the Dean of the applicable College. The appeal letter must be submitted within five business days of the issuance of the Committee's decision. The Dean will determine the student's appeal on the basis of the record made at the prior hearings below. No new hearing will be conducted and no new evidence or arguments will be presented that were not presented at either of the prior hearings. The Dean shall, within seven business days of receiving the student's appeal letter, issue a decision on the appeal.
- 3) In the event that the student does not accept the decision of the Dean, the student may appeal in writing to the University Provost. The appeal letter must be submitted within five business days of the issuance of the Dean's decision. The Provost will determine the student's appeal on the basis of the record made at the prior hearings below. No new hearing will be conducted and no new evidence or arguments will be presented that were not presented at either of the prior hearings. The Provost shall, within seven business days of receiving the student's appeal letter, issue a decision on the appeal.
- 4) Should the student not accept the Provost's decision, the student may, within five business days after the issuance of the Provost's decision, submit in writing an appeal to the President of the University. As with the appeal to the University Provost, the appeal to the University President will be based upon arguments and evidence presented below, and no new evidence or arguments will be considered by the President. No hearing will be held and the President's decision will be on the basis of the evidence and arguments presented below and the student's appeal letter to the President. Unless prohibited from doing so by physical absence from the University, the President shall issue a written decision to the student on the student's appeal within seven business days after receipt of the student's appeal letter.

The decision of the University President is final and in the event that the final decision is adverse to the interests of the student, the student may pursue all available non-university avenues. However, the procedure set forth above by which a student may present an appeal regarding the decision of whether, based on the background check, the student may participate in the clinical experience or program of study, are the administrative remedies available to the student. All of those administrative remedies must be pursued or the student will be prevented from pursuing any non-administrative remedy. In addition, the student must comply with all of the deadlines and other procedural requirements imposed at each stage of the appeal process, and may not skip a step in the process or alter any of the deadlines unless agreed to in writing by the University. The University has discretion to waive the deadlines or alter the procedure as may be requested by a student but in no event shall such waiver or other action require the University to take the same or similar actions in the future.

Adopted by President's Cabinet 10/12/05

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