

**PPP-77 Criminal Background Check Procedures for Job Applicants,
Employees and Volunteers**

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PPP-77 Criminal Background Check Procedures for Job Applicants, Employees and Volunteers

General

East Tennessee State University (ETSU) is committed to providing a work environment that embraces the University’s core values. Criminal background checks are used to help ensure an individual’s suitability relative to the requirements of their employment, and to assist ETSU in providing a productive, safe, healthy, and secure work and learning environment.

ETSU requires criminal background checks for new employees and volunteers for (1) Campus police and dispatchers; (2) Personnel working in licensed child care; (3) K-12 teachers, assistants and staff with direct child contact; (4) Health care providers providing direct patient care; (5) Resident assistants/directors hired in student housing with access to student rooms and/or apartments; (6) Positions with master key access; (7) Cashiers and/or other personnel paying or receiving monies; (8) New employees in housekeeping and maintenance who have access to student rooms and/or apartments; (9) New employees in information technology who have direct access to student rooms and/or apartments; (10) New staff in student housing with access to student rooms and/or apartments; (11) critical position as identified by the University President; (12) Candidates for any position that self-identify on employment application that they have committed a felony; (13) Additional state and/or federally mandated background checks or screenings.

ETSU’s Quillen College of Medicine has a separate background check policy for employees having direct contact with patients, see Appendix C.

ETSU will also conduct criminal background checks on current employees as required for position changes, transfers, and/or promotions, or in situations that pose a security risk.

ETSU reserves the right to add or delete positions to the list of positions subject to a criminal background check.

ETSU will process amendments to this policy through the Tennessee Board of Regents for review and approval as required.

ETSU has delegated authority to hiring departments to conduct appropriate background checks for those positions listed in Appendix A. The department will follow all required state and/or federal guidelines in conducting such checks and will properly secure all documentation.

Human Resources will conduct background checks for those positions listed in Appendix B, and will properly secure all documentation.

Procedures

Effective July 1, 2011, ETSU will begin and/or continue to conduct criminal background checks on all successful candidates, internal and external, including volunteers, for those positions that are listed as being subject to a criminal background check.

All position advertisements for positions listed in Appendix A and B as requiring a background check will state: “This position is subject to the successful completion of a criminal background check.”

Successful candidates for these positions will be offered the position “contingent upon a satisfactory criminal background check.” Whenever an offer is made in writing, this conditional statement must be

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included. No candidate for a position requiring a background check shall commence employment until a satisfactory criminal background check has been received.

Human Resources adds to employment contracts that *“A sexual offender registry, adult registry and/or criminal background check may be required by both Tennessee State law and University policy for employees and contractors with certain job duties. I do hereby consent to a background check and acknowledge the review and approval of the background check is a pre-condition to employment at the University.”*

For volunteer positions and positions for which a search was not necessary, for example a change in position description, reclassification, promotion, transfer, etc., the hiring authority will notify the candidate in writing of the criminal history background check requirement prior to offering the position. The candidate must not begin the new responsibilities until satisfactory results are received by Human Resources.

Employees subject to criminal background checks must report any arrest, citation, charge, conviction or plea of no contest (nolo contendere) to Human Resources immediately upon such arrest or conviction. Failure to do so may result in disciplinary action.

Human Resources will determine and maintain the list of what types of checks will be required based upon the responsibilities of the position. Positions may require multiple types of checks.

Background Checks Performed by Human Resources

Upon receipt of an electronic eJobs or paper Request to Hire, the Office of Human Resources will request that the hiring department obtain all “permissions documents” from the recommended candidate. Candidates will also be provided all disclosures required by the Fair Credit Reporting Act. Human Resources will then send via Internet or by fax the “agency background check request” and all proper documentation to the background check agency. The background check agency will normally respond within 48-72 hours of receipt of the form. Human Resources will notify the hiring department of the job-related results. Human Resources will certify and process the Request to Hire.

Results of Criminal Background Checks

Only criminal convictions will be considered in determining an applicant’s suitability for employment. Detention and/or arrest without conviction do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. In determining an applicant’s suitability for employment where the applicant has criminal convictions on his/her record, consideration will be given to the specific duties of the position, the number of offenses and circumstances of each, the age of the conviction(s) and the accuracy of the explanation on the application.

Pursuant to Tennessee Senate Bill 1648 and House Bill 1951, Resident Assistant and Housing Staff Background Check Guidelines, no person whose name is reported to be on the state’s or another state’s sex offender registry shall be hired to work in a position permitting such person access to students’ rooms or apartments in a student housing facility owned by the institution.

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Pursuant to T.C.A. 40-29-211, no registered sexual offender or violent sexual offender whose victim was a minor may be employed at East Tennessee State University if compensation would be through taxable wages or taxable stipends.

In all instances where information is obtained that may disqualify the candidate for hire, the file will be forwarded to the Background Screening Committee to make the final determination and appropriate notifications. The Background Screening Committee is composed of the Director of Human Resources (Chairperson), a representative from the Office of Public Safety, and a representative from the Office of University Counsel.

In compliance with the Fair Credit Reporting Act (FCRA), the Background Screen Committee will notify an applicant if information obtained from a consumer reporting agency is used, in whole or in part, in the decision to deny employment. A pre-notification letter will be sent to the applicant with a copy of the report and his/her rights under the FCRA. If the applicant is not hired due to information provided in the consumer report, the applicant will be sent a final written adverse action notification letter.

If, in compliance with state law, if a criminal background history check is requested directly from the TBI, the Federal Trade Commission does not consider the criminal history check subject to the requirements of the FCRA. The TBI is not a “consumer reporting agency” under the FCRA and the communication of criminal record data to the employer is not a “consumer report” even if the information is being used in connection with an employment decision.

Background Checks Performed by Departments

Departments conducting background checks and screenings as noted in Appendix A, will conduct those checks prior to the submission of the electronic eJobs or paper Request to Hire. Departments will certify that all required checks have been completed. In all instances where information is obtained from a consumer reporting agency that may disqualify the candidate for hire, the file will be forwarded immediately to the Background Screening Committee to make the final determination and all appropriate notifications. .

Record Keeping

All departments and the Office of Human Resources will properly secure all background check and screening information in a secured location. The Office of Human Resources will maintain background check information separately from an employee’s official personnel file. All information related to background checks will be used solely for eligibility and employment purposes, and will not be disclosed to third parties, except to persons with the need for such information to perform their job duties.

Fingerprint samples required by Tennessee Senate Bill 1648 and House Bill 1951, Resident Assistant and Housing Staff Background Check Guidelines, will be maintained by the university’s Department of Public Safety.

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Costs

Costs associated with criminal background checks for positions in Appendix A will be paid by the hiring unit. Costs associated with criminal background checks for positions in Appendix B will be charged to the Office of Human Resources.

Prior Criminal Background Check Qualifies

If a candidate for a position in Appendix B has had a criminal background investigation completed by ETSU within the last 12 months and the results are satisfactory for the position for which s/he is applying, a subsequent investigation may be waived at the discretion of the Director of Human Resources.

Procedures for Criminal Background Checks for Security Purposes

If the Director of Human Resources has reasonable grounds to believe that an employee or volunteer may represent an immediate threat to the safety and security of the University community or to the public, s/he or designee may conduct a criminal background check. The written authorization of the employee to conduct this check will be obtained in most cases; however, circumstances may exist in which obtaining a written authorization is not possible or feasible, in which case a limited background check may be done. Any information obtained through this process will be used solely for the purpose of maintaining the safety and security of the ETSU community and will be shared strictly on a “need to know” basis.

Source: Approved by Senior Staff on September 26, 2011

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Positions Requiring Background Checks

Appendix A*, Hiring departments conduct appropriate background check

1. Campus police and dispatchers
2. Personnel working in licensed child care
3. K-12 teachers, assistants and staff with direct child contact
4. Health care providers providing direct patient care
5. Additional state and/or federally mandated background checks or screenings
6. Resident assistants/directors hired in student housing with access to student rooms and/or apartments.

Appendix B*, Human Resources conducts appropriate background check

1. Positions with master key access (A)
2. Cashiers and/or other personnel paying or receiving monies (A)
3. Staff assigned the business, human resources, and procurement offices (A)
4. New employees in housekeeping and maintenance who have access to student rooms and/or apartments (B)
5. New employees in information technology who have direct access to student rooms and/or apartments (B)
6. New staff hired in student housing with access to student rooms and/or apartments (B)
7. Critical positions as identified by the University President (A)
8. Candidates for any position that self-identify on employment application that they have committed a felony (A)
9. Additional state and/or federally mandated background checks or screenings (screens as required)

***Screening Codes**

A. SSN Verification

Multi-jurisdictional criminal database-all counties of residence for the past seven years

National Sexual Offender Search

Federal Criminal Record Search

Motor Vehicle Records Search

B. (Housing Only Screen)

SSN Verification

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Multi-jurisdictional criminal database-all counties of residence for the past seven years

National Sexual Offender Search

National Criminal Database

Fingerprinting

Appendix C, Quillen College of Medicine Policy

Faculty and Staff Criminal Background Check Policy

Quillen College of Medicine is committed to educating well-trained physicians who possess the traits of high moral character and standards. All prospective employees and students of Quillen who will have direct contact with patients must undergo a Criminal Background Check (CBC) as a condition for hire or matriculation. All conditionally accepted medical students must undergo a CBC prior to matriculation, according to the policy outlined in the College of Medicine Catalog. Prospective resident and fellow physicians must undergo a CBC as a condition of employment, according to the policy outlined in the Resident Handbook.

Review and approval of a completed CBC is a precondition to employment for new faculty and staff members who will have direct patient contact. As mandated by the State of Tennessee (T.C.A. § 63-1-149), Quillen College of Medicine will not employ any person who appears on any state’s sexual offender registry, the national sex offender public registry website coordinated by the United States Department of Justice, any state adult abuse registry, or the Tennessee Department of Health’s elder abuse registry. The CBC may also reveal information not contained in the above registries that could disqualify one from being considered for employment.

Quillen College of Medicine uses Truescreen, Inc., an outside vendor contracted with the Tennessee Board of Regents, for the CBCs of employee hires. The CBC will include a record of all convictions, including those that would lead to inclusion in the registry listings above. A list of the information checked and evaluated in the CBC may change from time to time.

After hiring, all faculty and staff employees that have direct patient contact are required to disclose within five (5) working days of their occurrence, any criminal charges or events. Failure of an employee to notify his/her direct supervisor of such events may result disciplinary action up to and including termination.

If the CBC evaluation identifies any issue that may preclude participation in activities where direct patient contact occurs, the case will be referred immediately to the Criminal Background Administrative Committee (CBAC) for evaluation. All post-hire employee reported events will also be referred to the CBAC. The CBAC is comprised of the Executive Associate Dean for Academic Affairs, Executive Associate Dean for Clinical Affairs, and the Associate Dean for Student Affairs. This committee is responsible for making recommendations to the Dean who retains the authority to make the decision in all such matters about hiring or employee disciplinary action.

The College reserves the right, at its sole discretion, to amend, replace, and/or terminate this policy at any time.