



Idaho State University

POLICIES AND PROCEDURES

Background Investigations

ISUPP 3170

POLICY INFORMATION

Policy Section: *Human Resources*

Policy Title: *Background Investigations*

Responsible Executive (RE): *AVP of Human Resources*

Sponsoring Organization (SO): *Office of Human Resources*

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I. POLICY STATEMENT

In an effort to secure the safety and well-being of campus community members and institutional assets, it is the policy of Idaho State University (ISU or University) to ensure that potential employees and particular contractors and Volunteers have certain credentials and/or criminal or other background information verified through appropriate Background Investigation procedures.

II. DEFINITIONS

- A. **Applicant:** An individual applying for a position he/she does not currently hold at the University. Applicants can be new to the University or current employees transferring or promoting into a different position.
- B. **Background Investigation:** A Background Investigation consists of one or more verification processes, including, but not limited to, a Criminal Conviction check, verification of employment, academic degrees and credentials, and/or motor vehicle check.
- C. **Convictions:** For purposes of this policy, the term Conviction will be interpreted to include pleas of Nolo Contendere (no contest), deferred adjudications, judge or jury trial

convictions, guilty pleas and similar dispositions of a felony or misdemeanor other than Minor Traffic Violations.

- D. **Criminal Conviction Check:** A review of a Final Candidate's background may include criminal records (misdemeanor and felony Convictions), and the Office of Foreign Assets Control of the U.S Department of Treasury (OFAC) Terrorist Watch List. Criminal background checks will be conducted in the states, cities, and counties of known residences where the Final Candidate lived or worked for up to ten (10) years and will include available sex offender registries in those areas.
- E. **Fair Credit Reporting Act:** The Fair Credit Reporting Act (FCRA), enforced by the U.S. Federal Trade Commission (FTC), is designed to promote accuracy and ensure the privacy of the information used in consumer reports and investigative consumer reports. The FTC, treats criminal background checks conducted by a reporting agency as investigative consumer reports and are therefore regulated by the FCRA.
- F. **Final Candidate:** An individual who is recommended for hire and to whom a contingent offer of employment is made.
- G. **Minor Traffic Violations:** Moving violations or traffic infractions that do not involve alcohol, controlled substances, or reckless or aggressive driving.
- H. **Personally Identifiable Information:** The combination of an individual's first and last name plus one or more of the following:
 - 1. Social Security Number;
 - 2. Bank Account number; or
 - 3. Credit Card Number
- I. **Volunteer:** Any person who is not an employee or Applicant who provides a service to the University without expectation of remuneration that involves direct and unsupervised access to patients, animals, vulnerable individuals, minors, or having access to Personally Identifiable Information, confidential information, laboratory facilities, regulated facilities, student housing, controlled substances, or hazardous materials.
- J. **Student:** Anyone enrolled at Idaho State University at least half time (as defined by ISU Registrar).

III. AUTHORITY AND RESPONSIBILITIES

- A. The Office of Human Resources (HR or Human Resources) is solely authorized to conduct and oversee the employment-related Background Investigation process on behalf of ISU.

Human Resources may work with law enforcement or contract with outside agencies in executing any of the obligations set forth in this policy. Human Resources is responsible for consulting with the appropriate appointing authority in making decisions regarding what type of Background Investigation is appropriate, interpreting Background Investigation records and information in consultation with General Counsel, determining whether a Final Candidate is eligible for employment in consultation with General Counsel, making personnel recommendations to the hiring department, and determining whether a Volunteer or contractor may perform services for ISU in consultation with General Counsel. Human Resources will work with supervisors to ensure that position descriptions and job announcements clearly disclose that a final offer of employment is contingent upon successful completion of a Background Investigation for all newly hired Classified Employees, Non-Classified Employees, Faculty, Coaches, and Resident Directors as described in ISUPP No. 3050, Categories of Employees, Section IV.A and Section IV.B.a.b.

- B. Supervisors are responsible for determining whether Temporary or Special Project Employees such as Temporary Staff, Adjunct Faculty or Student Employee positions as defined in ISUPP No. 3050, Categories of Employees, section IV.B.c within their span of control entail any of the responsibilities listed in section III.E.d of this policy, and as such require a Background Investigation. Supervisors should consult with the Office of Human Resources, General Counsel, and their respective management chain in the event that they are uncertain whether a particular temporary position should be subject to a Background Investigation.
- C. At the time a Final Candidate is identified, the hiring department will provide the Final Candidate with the necessary Background Investigation authorization form(s) and procedures as part of a contingent offer of employment letter. The Final Candidate must complete the appropriate form(s) in full and return it to the hiring department or as otherwise instructed on the authorization form(s). The hiring department will then submit the form(s) or otherwise coordinate the processing of the Background Investigation with Human Resources.
- D. Final Candidates seeking positions that require a Background Investigation provided by a consumer reporting agency have rights under the Fair Credit Reporting Act (FCRA), which must be safeguarded by the University.
 - 1. In accordance with FCRA requirements, the University will:
 - a. Disclose its intent to conduct a check with a consumer reporting agency that will be used in making an employment decision;
 - b. Provide the Final Candidate with a summary of his/her rights under the FCRA;

- c. Obtain written or electronic authorization from the Final Candidate to conduct a Background Investigation with a consumer reporting agency;
 - d. Inform the Final Candidate that if the report contains information not disclosed by the Final Candidate, the University may take adverse action.
 - 2. Notification of Intent to Take Adverse Action. If a Background Investigation report from a consumer reporting agency yields information that may form the basis for an adverse action, a copy of the report will be provided to the Final Candidate. The Final Candidate will then have five (5) business days to contest the accuracy of the information contained in the report. If the Final Candidate fails to disprove the accuracy of the information to the reasonable satisfaction of the University, the University may then take adverse action. In doing so, the Final Candidate will be notified of:
 - a. The name, address, and telephone number of the consumer reporting agency that provided the information, and a statement that the consumer reporting agency did not make the adverse decision and is not able to explain why the decision was made;
 - b. His/her right to obtain a free copy of his/her file from the consumer reporting agency within sixty (60) days; and
 - c. His/her right to dispute the accuracy or completeness of any information with the consumer reporting agency.
- E. Once the accuracy of adverse information has been verified with the reporting source, the Director of Human Resources, the appropriate Vice President, and the Office of General Counsel, or their designated representatives, will make a determination whether the Final Candidate is eligible for employment based on all facts and circumstances, including:
 - 1. Relevance of adverse information to specific position responsibilities;
 - 2. Falsification of application materials pertaining to the adverse information; and
 - 3. Circumstances relating to the adverse information.
- F. Due to potential conflicts of interest and confidentiality concerns, information gathered in the course of any Background Investigation will not be disclosed to search committees or employees assigned to the department, college, or unit conducting the search. Human Resources, in consultation with General Counsel and the respective Vice President, will only inform the hiring managers whether, based on the results of the Background Investigation, an offer of employment may be finalized with the Final Candidate.

IV. PROCEDURES TO IMPLEMENT

- A. All Applicants seeking employment at ISU for positions as described in section III.E of this policy must consent to a Background Investigation as a condition of employment. Any Applicant who refuses to consent to a Background Investigation, refuses to provide information necessary to conduct the Background Investigation, or provides false or misleading information will not be considered for the position for which he or she has applied. Any Applicant who has already been hired or promoted and is subsequently found to have provided false or misleading information related to the Background Investigation may be subject to disciplinary action, up to and including termination.
- B. Certain individuals seeking to perform as Volunteers, (see IV.I below) may be required to consent to a Background Investigation as a condition of performing volunteer services. Any potential Volunteer who refuses to consent to a Background Investigation, refuses to provide information necessary to conduct the Background Investigation, or provides false or misleading information will not be permitted to perform volunteer services.
- C. Certain individuals seeking to perform work as Contractors, (see III.L below) may be responsible for conducting Background Investigations on all employees, agents, and subcontractors that provide services to ISU. Upon request, said contractors may be required to provide certification that such background investigations have been performed satisfactorily.
- D. All offers of employment for positions as described in section III.E of this policy are contingent upon a satisfactory Background Investigation. Employment shall not be effective until The Office of Human Resources has notified the hiring department that the Final Candidate has satisfactorily completed the Background Investigation.
- E. Background Investigations will be conducted on:
 - 1. All Final Candidates for Classified Employee, Non-Classified Employee, Faculty, Coach, and Resident Director positions as defined in ISUPP No. 3050, *Categories of Employees*, Section II.A., II.B.1, and II.B.2, or said employees rehired with a break in service greater than twelve (12) months or other period of time that may be less than twelve (12) months, as required by the employing department.
 - 2. All current employees who are hired, promoted, or transferred into a new position or who have a significant change in job duties unless a prior Background Investigation appropriate for the position was performed within the last twelve (12) months. For purposes of this policy, a promotion does not include advances in academic rank, such as progression from an assistant professor to an associate professor, or when there is a reclassification in title for staff positions that do not require a competitive application and selection process or other search waiver as approved by the Office of Equal

Opportunity/Affirmative Action & Diversity. For classified staff, a promotion occurs when the employee is appointed to a class with a higher pay grade maximum than his/her current position through a competitive application and selection process. For non-classified staff, a promotion occurs when the employee accepts a higher-level job title through a competitive selection process or approved search waiver with an increased salary. For faculty positions, a promotion occurs when a faculty member accepts an administrative position with increased and/or different position responsibilities through a competitive selection process or approved search waiver along with an increase in salary.

3. Volunteers meeting the criteria described in the "Definitions" section of this policy, (see II.I).
 4. Temporary or Special Project Employees such as Temporary or Special Project Staff positions, Adjunct Faculty, or Student Employees as listed in ISU Policies and Procedures No. 3050 *Categories of Employees* Section II.B.3, or Temporary Special Project staff, Adjunct Faculty, or Student Employees rehired with a break in service greater than twelve (12) months, or other period of time that may be less than twelve (12) months as required by the employing department, appointed to positions that include at least one (1) of the following:
 - a. Supervision of or regular interaction with patients, animals, vulnerable individuals or minors under the age of eighteen (18); or
 - b. Direct and unsupervised access to or control of cash, checks, credit card account information, Personally Identifiable Information, or confidential information; or
 - c. Possession of building master keys, access to laboratory facilities, access to regulated facilities, or campus housing; or
 - d. Regular operation of University vehicles; or
 - e. Direct and unsupervised access to or responsibility for controlled substances or hazardous materials; or
 - f. Direct and unsupervised access to sensitive information, including but not limited to: Personally Identifiable Information of others, legal files, business records, University financial data of any kind, non-directory student information as defined by FERPA regulations and ISU policy, intellectual property, emergency materials, CLERY act information, electronic files of buildings and campus utility systems.
- F. A Criminal Conviction Check must be conducted for all Final Candidates and certain Volunteers and contractors. Human Resources will not consider arrest information unless the arrest resulted in criminal charges that are still pending. In such circumstances, Human

Resources will contact the Final Candidate, Volunteer, or Contractor, and may contact other parties, to obtain further information in order to assess the reliability of the charge information.

1. A prior criminal Conviction does not automatically disqualify an Applicant from employment, promotion, transfer, or a volunteer position. The criminal history will be evaluated for relevance to the specific position responsibilities. The evaluation may include, but is not limited to:
 - a. Falsification of application materials or other University records pertaining to the Conviction(s);
 - b. Length of time that has passed since the Conviction(s) occurred;
 - c. Applicant's age at the time the Convicted crime(s) was committed;
 - d. Employment record subsequent to the Conviction;
 - e. Length of University service and performance (for promotions and transfers);
 - f. Number and gravity of the Convicted crime(s) committed and the nature of the Convicted crime(s) in relationship to the nature of the work to be performed; and
 - g. Relationship of the Convicted crime(s) committed to the responsibilities of the position desired.
- G. Professional reference checks must be completed for all Final Candidates as appropriate to the respective position. The hiring department is responsible for conducting the reference checks.
- H. Motor Vehicle Record Checks
 1. Motor vehicle record checks will be conducted on Final Candidates and Volunteers in positions that:
 - a. Are responsible for regularly operating a University owned or controlled vehicle;
 - b. Are responsible for transporting students, clients, or others in a private vehicle on a routine basis; or
 - c. Require a Commercial Driver's License; or
 - d. Are responsible for transporting minors under the age of eighteen (18) at any time.
- I. Notification of Criminal Charges and/or Notification of Loss of Driver's License Requirements
 1. As a condition of continued employment, every employee must inform his/her supervisor within two (2) business days if he/she is charged with any crime other than a Minor Traffic Violation. This includes circumstances where an employee is charged

with a crime while off contract, such as faculty and staff during the summer months. Exceptions to timely notification may be considered based on case specific extenuating circumstances. Employees who fail to self-disclose in a timely fashion may be subject to disciplinary action, up to and including termination. Any supervisor notified of a postemployment criminal charge must inform Human Resources and their respective management chain. Failure to do so within a timely fashion may lead to disciplinary action, up to and including termination.

a. Administrative Leave

- i. Upon learning of the arrest of or filing of criminal charges against an employee, the appropriate Vice President, Office of General Counsel, and the Director of Human Resources, or their delegated representatives, will make a determination as to whether the employee may continue to perform his/her job responsibilities or should be placed on administrative leave pending the outcome of any or all legal proceedings. This determination may be made using factors that include, but are not limited to:
 1. Whether the employee complied with the mandatory notification requirement as listed in section III.I;
 2. The gravity and nature of the charges in relationship to the employee's job responsibilities;
 3. Length of University service and performance while employed; and/or
 4. Prior criminal Convictions.
2. All employees who drive a vehicle for university business are required to inform his/her supervisor of any suspension or revocation of a driver's license within two (2) business days of the suspension or revocation. Employees who fail to self-disclose may be subject to disciplinary action, up to and including termination. Any supervisor notified of a postemployment suspension or revocation of a driver's license has an obligation to report the information to Human Resources and their respective management chain. Failure to do so may lead to disciplinary action, up to and including termination.
 - a. Upon learning of the suspension or revocation of an employee's driver's license, the appropriate Vice President, Office of General Counsel, and the Director of Human Resources, or their delegated representatives, will make a determination as to whether the employee may continue to perform his/her job duties, whether modifications can reasonably be made so the employee can continue to work in the same position, or if there is another job the employee can be transferred to.

- J. Contractors performing work involving patients, animals, vulnerable individuals, minors, or having access to Personally Identifiable Information, confidential information, laboratory facilities, regulated facilities, student housing, controlled substances, or hazardous materials are responsible for conducting Background Investigations on all employees, agents, and subcontractors that provide services to ISU, and upon ISU request, certifying that such employees, agents, and subcontractors have satisfactorily completed the Background Investigation. Failure to complete the Background Investigation or provide certification that the Background Investigation was completed may result in the termination of the contractor's services.

V. RELATED LAWS AND POLICIES

- A. ISU Policies and Procedures <https://www.isu.edu/policy/>
 - 1. Section III – Human Resources <https://www.isu.edu/policy/human-resources/>
 - a. *Categories of Employees* ISUPP 3050
 - b. University Volunteer ISUPP 3020
- B. Fair Credit Reporting Act, 15 U.S.C. § 1681