



UNIVERSITY SYSTEM  
OF GEORGIA

# Background Investigation

## CITATION REFERENCE

<b>OFFICIAL TITLE</b>	POLICY ON BACKGROUND INVESTIGATION
<b>VOLUME</b>	HUMAN RESOURCES
<b>RESPONSIBLE OFFICE</b>	USG HUMAN RESOURCES OFFICE
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## Policy Statement

This policy establishes the background check requirements and process for USG and ensures adherence with applicable laws, policies, and procedures. Each institution is expected to ensure they comply with the following requirements and standards:

- A background investigation that conforms to the standards of this policy is a condition of employment with any University System of Georgia institution.
- Where applicable, employment offers shall be conditional pending background investigation results.
- Background investigations shall be initiated through the institution’s Office of Human Resources and conducted by the approved vendor, in accordance with any mandatory requirements and applicable laws and regulations. All institutions will be notified whenever the required vendor(s) change.
- Public Safety Departments may not conduct background investigations for employees other than the additional requirements associated with sworn and non-sworn law enforcement positions as required by state law and Georgia Peace Officer Standards and Training (P.O.S.T.) certification requirements.

## Applicability

All units of the University System of Georgia are covered by this policy; all employees, and affiliates (i.e. students and volunteers) in positions of trust, are covered by this policy.

The following positions are required to have a background check prior to hire:

- Faculty, staff, and administrators (including full and part time)

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- Any existing employee being transferred, reassigned, reclassified or promoted to a Position of Trust is subject to a background check unless a background investigation conforming to this policy has been performed within the past year.
- Students, temporary employees, and volunteers when serving in Positions of Trust as defined above. An institution may also elect to perform reference checks and/or background investigations on students, temporary employees, and volunteers who are not in Positions of Trust.
- **Rehired Employees:** For employees that separate from any USG institution and are subsequently rehired, the following standards apply:
  - If a background check was completed within the past year and if the period of separation is less than 120 days, a new background review will not be required, unless there are areas of review required by the job that were not covered in the previous review (i.e. credit or academic credentials check or position of trust as appropriate to the job).
  - An employee that is on a break (such as faculty between consecutive semesters, casual labor pool workers, etc.) is not considered terminated.
  - A rehired employee that is not subject to a new background screening upon rehire must disclose any charges or convictions which were sustained during their employment separation or break. Employees must be notified of this disclosure requirement. Failure to fully and properly disclose any charges or convictions will result in disciplinary action up to and including termination.
  - Prior to reemployment, the eligibility for rehire verification must also be conducted. (Reference HRAP on Eligibility for Rehire)
- **Purchase Card Holders.** P-Cards are issued within Department of Administrative Services (DOAS) policies and guidelines. Any existing employee that is transferred, reassigned, reclassified or promoted into a position requiring a Purchase Card, when they have not been assigned a Purchase Card previously, must submit to a credit check. Existing cardholders are subject to a credit check before their next card renewal. Human Resources and the P-card Administrator must collaborate to ensure that the cardholders receive a timely credit check and periodically audit the process for compliance.
- **Current Employees.** Although existing employees (who are not moving to positions of trust) are not required to undergo another background investigation, current employees who are charged with or convicted of a criminal offense are required to disclose such information in accordance with the requirements established in the HRAP General Criteria for Employment.

## Who Should Read This Policy

All Human Resources personnel within the University System of Georgia should be aware of this policy; all employees, and affiliates (i.e. students and volunteers) in positions of trust, and applicants for employment, should be aware of this policy.

## Definitions

These definitions apply to these terms as they are used in this policy:

**Background Investigation:** An investigation comprised of a criminal background check (including social security number check and, for positions with access to or responsibility for financial resources, such as a purchase card, a credit check) as well as credentials and employment history confirmation.

**Background Investigation Officer (BIO):** The Chief Human Resource Officer or their designee charged with reviewing background investigations results and making employment and promotions suitability determinations. The BIO consults with the Background Investigations Committee (BIC) and senior administrators as necessary in making employment eligibility determinations.

**Background Investigation Committee (BIC):** The Administrative Committee charged with determining hire suitability. Each institution shall form such a committee, as necessary. It is suggested the committee have a maximum of four members and include a representative from the institution's Office of Human Resources, the institution's legal advisor, academic affairs, and public safety department (where applicable). The applicable hiring department will be consulted as necessary in assessing position responsibilities. All information must be kept confidential.

**Consent Form:** A form authorizing the institution to conduct a criminal background check and includes criminal history self-disclosure.

**Consumer/Credit Reporting Agency (CRA):** An entity that collects and disseminates information about an individual's credit standing which is used (or expected to be used) for credit evaluation and certain other purposes outlined in the Fair Credit Reporting Act (FCRA), including employment background investigations.

**Hiring Department:** The department hiring a new employee (whether internally or externally), or promoting an existing employee.

**Office of Human Resources:** The institution's department that handles all hires at the institution. On a decentralized campus, this is typically handled at the Central Office of Human Resources or as delegated by the CHRO.

**Positions of Trust:** Involve responsibilities demanding a significant degree of public trust as defined below, with significant risk for causing damage or realizing personal gain. Primary responsibilities include, but are not limited to:

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- Direct interaction or care of non-student minors or direct patient care. Responsibilities require unsupervised or significant access to vulnerable populations, defined as minors and medical patients. For purposes of this policy, a minor is a person under the age of eighteen (18) who is a non-student (not enrolled or accepted for enrollment at a USG institution) Examples of settings with vulnerable populations include childcare centers, summer camps for minors, precollege or enrichment programs, and health care facilities. This category does not include faculty or instructional academic staff performing regular teaching; however, all faculty or instructional academic staff are required to have a background check.
- Security Access. Responsibilities require access to IT security, personal information, or identifying information of another person; financial information of the employer or another person; access to firearms or weapons; access to pharmaceuticals or controlled substances - those providing direct patient medical care; or work in an area of the university which has been designated as a security-sensitive area. (e.g., public safety, IT security, personnel records, or patient records).
- Financial/fiduciary. Responsibilities require operation, access or control of financial resources to include: P-Card access; Budget authority in making significant financial decisions; Primary responsibilities require handling, receiving, or having custody of money, checks or securities, or accounting for supplies or other property; authorizing (or making appropriations for) expenditures; approving, certifying, signing or countersigning checks, drafts, warrants, vouchers, orders or other documents providing for the payout or delivery of money, securities, supplies or other property, or service of process; maintaining or auditing accounts of money, checks, securities, time records, supplies, or other property, or taking physical inventories of money, checks, securities, supplies, or other property.

Positions with financial/fiduciary responsibilities will be subject to both a background check and a credit check.

- Property access. Responsibilities require the use of master keys/card access and pertain to employees with access to offices, facilities or worksites other than their own worksite, including residential housing facilities. These positions will generally be subject to a background check and not a credit check unless the key access is a vault.
- Executive positions. Responsibilities involve top-level management functions throughout USG Administration and positions in campus departments with centralized and primary responsibility for significant university resources as determined at the institution level. (E.g. Leadership positions at or above Deans, Chairs and Directors, Faculty Directors and Chief levels).

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**Moral Turpitude:** Crimes of moral turpitude are generally those involving vileness or depravity with respect to the duties a person owes to other members of society or to society in general. In particular concern are those crimes involving violence, dishonesty or breach of trust. Examples include but are not limited to murder, rape, fraud, embezzlement, and child abuse.

**Reference Check:** Reference Checks are required under the General Criteria for employment HRAP. A reference check generally involves an institution contacting a job candidates' previous employers, schools, and other sources to verify previous employment and educational background, and to obtain information about the individual's knowledge, skills, abilities, behaviors, and qualifications for the job. Reference check questions should be consistent across all candidates and must relate directly to the position being filled. Questions about age, race, sex, religion, marital status, national origin or other legally protected characteristics should not be asked as they do not have anything to do with past or future job performance. A reference check is completed by the hiring department before a conditional offer of employment is made and before and/or parallel to a background investigation.

### Background Check Requirements

Background checks shall include, at a minimum, the following:

- A state and federal criminal history check covering a minimum of seven (7) years. Institutions may require state and federal criminal history checks covering more than the minimum of seven (7) years for specified Positions of Trust;
- A nationwide sex offender search;
- A social security number verification;
- An academic and professional credentials check for all professional, faculty, and academic positions in accordance with accreditation and professional standards and requirements; For employees with a professional license related to job responsibilities, a review of any disciplinary actions to include suspensions and revocations; and
- A credit check for the applicable positions as previously referenced within this policy. Credit check screenings must follow all applicable policy guidelines, regulations, and laws.

Each institution's Office of Human Resources is required to establish and maintain a listing of positions requiring a credit check. Also, when appropriate, institutions should evaluate positions and make determinations based on related responsibilities. Typical examples are provided below and may be modified to meet organizational needs.

Examples of positions that typically require a credit check.

- Positions with centralized and primary responsibility for significant institutional resources. (i.e., Leadership positions at or above the Director and Chair level).
- All positions in the following departments, regardless of job title or function: Finance & Business Strategy, Bursar's Office, Controller's Office, and the Office of

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Financial Aid or the equivalent departments at an institution even if they are named differently.

- All employees with central accounting function roles.

Examples of positions that typically do not require a credit check.

- Infrequent or incidental access to cash, checks or credit/debit card information.
- Access to finance system for conducting institutional business, such as an Accounting Technician responsible for entering data in the system.
- **Positions of Trust** Institutions must maintain an up to-date positions of trust listing as defined in this policy. The following screening related stipulations apply to Positions of Trust: Specified Positions of Trust positions may require more than the minimum seven (7) years state and federal criminal history check.

Disclosure of Criminal Record History

- Criminal history self-disclosure forms must be completed by all finalists prior to hire and in compliance with relevant laws and policies.
  - Positions of Trust. Positions of Trust meet the State of Georgia's Ban the Box standards of positions for which a criminal history would be an immediate disqualification. As such, Applicants for positions of trust may be asked to disclose criminal record history during the initial screening process and prior to a conditional employment offer. The criminal history self-disclosure form must be completed prior to hire. Positions of trust must be identified prior to posting the position and made known to applicants.(Reference HRAP Employment Applications)
  - In accordance with the Governors Bann the Box Executive Order, other applicants may not be asked to disclose criminal record history unless they have been selected for hire and have received a conditional employment offer.
- Institutions must establish documented procedures to review and compare criminal history self-disclosures and background check results prior to the hire date. If conflicting information is found, the candidate should be given the opportunity to provide an explanation. The information is then evaluated for job relevance and policy disqualification criteria.

Disqualification of Employment

A candidate will be disqualified for employment for any of the following reasons:

- A criminal drug conviction shall disqualify a candidate for at least three (3) months from the most recent conviction date. A second or subsequent criminal drug offense shall disqualify a candidate from employment or re-employment for five (5) years from the most recent conviction date.

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- The candidate applying for a position of trust has been convicted of a felony or crime involving moral turpitude, unless the applicant has been pardoned.
- Any false statement of material fact during the screening process.
- The candidate is or has been a member of an organization advocating the violent overthrow of the United States or State of Georgia government.

### Process and Procedures

#### Process for Conducting Background Investigation

- All job postings must state that *finalists* will be required to submit to a background investigation and that applicants for Positions of Trust, in which a criminal history would be an immediate disqualification from employment, may be asked to disclose criminal record history during the initial screening process and prior to a conditional offer of employment. The statement should also include reference checks and additional job-based requirements such as credit check or academic credentials. (Reference HRAP on employment applications). The institution shall set guidelines for assigning the cost of performing a background investigation.
- All information contained in the application form is subject to verification.
- The Hiring Department is responsible for verifying employment history, educational credentials, and professional references of all selected candidates. For positions that require professional certification or licensure, the Hiring Department must obtain from the selected candidate a copy of a current license or registration, where applicable, or verify with the accrediting or licensing authority that the selected candidate is duly accredited or licensed, and that such accreditation or licensure is current. The candidate must be given an opportunity to provide an explanation in writing of the circumstances surrounding the results of the credentials check, including any mitigating factors, and have this explanation considered prior to the conditional offer of employment.
- The Hiring Department is responsible for completing a reference and credential check of an applicant (as applicable) before the Background Investigation is initiated and before an offer of employment is extended.
- The Office of Human Resources shall provide the final candidate with the required employment paperwork, including the Consent Forms via the approved background check vendor. A conditional employment/promotion offer may be made at this time. **Important:** *All employment offers must be made in writing and must include the following statement: "This employment offer is contingent upon completing a background investigation including a criminal background check demonstrating your employment eligibility with [the institution], as determined by [the institution] in its sole discretion, confirmation of the credentials and employment history reflected in your application materials and, if applicable, a satisfactory credit check."*

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- Upon receiving a signed conditional employment offer acceptance, Consent Form, and the criminal history self-disclosure form, the Office of Human Resources will initiate the candidate's Background Investigation. If the top candidate is not hired (e.g. criminal conviction precludes hiring or the candidate does not accept the job offer, etc.), the Hiring Department may select another candidate for the position. Once the next selected candidate accepts the offer and signs the Consent Form, then the Office of Human Resources will initiate the investigation process.

Evaluating and processing Criminal Background Check Information:

Background Investigation reports are submitted directly to the Office of Human Resources by the system approved background check vendor performing the investigation. The BIO is responsible for reviewing the background check results against the criminal history self-disclosure and determining the employment eligibility of the selected candidate. The Office of Human Resources will notify the Hiring Department of this determination. The BIO makes its eligibility decision as follows:

When determining whether a candidate with disclosed criminal convictions is eligible for employment or promotion, the BIO will consider the specific responsibilities of the position for which the candidate is being considered, the nature, number and gravity of crimes for which the candidate was convicted and the amount of time that has passed since the conviction.

Prior to making a final determination of eligibility for employment based on the results of a background investigation, the Office of Human Resources must provide the candidate with a Pre Adverse Action Disclosure and Adverse Action Notice according to the following guidelines.

Pre-Adverse Action Disclosure. If the Background Investigation report shows any conviction, a Pre-Adverse Action Disclosure must be provided to the candidate prior to a final determination of ineligibility for employment. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the Credit Reporting Agency (CRA) that conducted the Background Investigation, and information on how to dispute information in the report. A copy of "A Summary of Your Rights under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the CRA performing the Background Investigation.

The candidate must be given an opportunity (a minimum of five days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to finalizing the employment eligibility decision.

The institution is not responsible for discovering, researching or verifying that there are possible mitigating factors. The burden of proof to present mitigating factors rests entirely with the applicant.



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A copy of their report shall be given to each applicant and/or employee as applicable.

Adverse Action Notice. If the candidate is determined to be ineligible for employment following the pre-adverse action disclosure period, the Hiring Department will be notified and an adverse action notice must be sent to the candidate. This notice must include the following:

- the name, address and telephone number of the CRA that supplied the Background Investigation report;
- a statement that the CRA that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- a notice of the individual's right to dispute the accuracy and completeness of any information the CRA furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the CRA upon request within sixty days.

An ineligibility determination for a specific position due to a criminal conviction or credit report does not necessarily render an individual ineligible for all employment with the institution and each determination will be made on a case-by-case basis.

### Background Investigation Scenarios

- **The Background Investigation report shows an arrest or pending criminal charges, but no conviction.** If an individual has a criminal case pending, their employment eligibility will be determined upon disposition of the case. Only criminal convictions may be considered when determining a candidate's eligibility for a specific position or employment as a whole. Detention and/or arrest without conviction do not constitute valid grounds for adverse employment decisions and do not play a part in the decision-making process. Candidates will be contacted in writing and provided a timeframe to communicate the resolution, along with documentation, of the case in order for a final determination to be made. (Reference HRAP General Criteria for Employment for reporting requirements for current employees.)
- **The Background Investigation report shows no convictions:** The selected candidate is eligible for employment and the Department and candidate are notified.
- **The Background Investigation report shows one or more felony convictions or conviction of one or more crimes of moral turpitude:** The selected candidate is ineligible for employment with the institution in a position of trust. Prior to making this final determination, the Office of Human Resources must notify the candidate and follow the **Pre-Adverse Action Disclosure requirements outlined above.**
  - If the candidate successfully shows that they have no felony convictions or convictions of crimes of moral turpitude, then the candidate shall be eligible for further consideration of employment. The Office of Human Resources will notify the candidate and Hiring Department of this determination.

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- If the candidate is unsuccessful in showing no felony convictions or convictions of crimes of moral turpitude, then the candidate is ineligible for employment in a position of trust. The Hiring Department will be notified and the Office of Human Resources will notify the candidate following the Adverse Action Notice requirements outlined above.
- **The Background Investigation report shows criminal convictions and the selected candidate is not applying for a position of trust:**
  - *The criminal convictions were all disclosed by the selected candidate.* The BIO will determine whether the candidate is eligible for the position based on the job description and the nature of the crimes for which the candidate was convicted.
    - If the BIO determines the candidate is eligible, then the Office of Human Resources will notify the Hiring Department and the candidate.
    - If the BIO determines the candidate is not eligible, then prior to making this final determination, the Office of Human Resources must give a **Pre-Adverse Action Disclosure** to the candidate following the guidelines outlined above.
      - If the candidate successfully shows that s/he does not have the criminal convictions that led the BIO to determine that the candidate was ineligible for employment, then the candidate shall be eligible for employment. The Office of Human Resources will notify the Hiring Department and the candidate of this determination.
      - Since this is not a Position of Trust, in instances where the candidate is unsuccessful in showing that s/he does not have the criminal conviction, the BIO should consider the written explanation of the circumstances surrounding the results of the Background Investigation, including any mitigating factors and job relatedness prior to finalizing the employment eligibility decision.
        - If the BIO determines that the candidate is eligible for employment. The Office of Human Resources will notify the Hiring Department and the candidate of this determination.
        - If the Bio determines that candidate is ineligible for employment. **An Adverse Action Notice** must then be sent to the candidate following the guidelines outlined above.
  - *The criminal convictions were not disclosed by the selected candidate.* The Office of Human Resources will notify the candidate in writing that the Background Investigation revealed criminal convictions that were not disclosed and that s/he will be removed from consideration for the involved position due to misrepresentation and falsifying

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application materials unless s/he contacts the Hiring Office and corrects any inaccuracies contained in the report within a minimum of five (5) days. This notification will be accompanied by an **Adverse Action Disclosure following the guidelines above.**

- If the candidate successfully shows that s/he has no criminal convictions, then the candidate shall be eligible for employment. The Office of Human Resources will notify the Hiring Department of this determination.
- If the candidate is unsuccessful in showing no criminal convictions, and the subsequent evaluation results in a determination of misrepresentation, then the candidate is ineligible for employment due to misrepresentation and falsifying application materials. An **Adverse Action Notice** must then be sent to the candidate following the guidelines above.

### Guidelines for Determining Employment Eligibility or Continued Employment When Verifying Credit History

The following are guidelines for institutions to interpret the information obtained in the credit report for each applicant and/or existing employee. Each institution is expected to establish procedures that align with the guidelines below.

- Positions with fiduciary responsibilities outside of P-cards. The BIO in coordination with the department head is responsible for determining the eligibility of the selected candidate for employment with the institution based on the following guidelines:
  - Federal law prohibits discrimination against an applicant or employee as a result of bankruptcy, and it should not be the sole reason for an adverse employment decision. An individual assessment should be conducted to include other factors such as:
    - How recent was the behavior?
    - Was it an isolated incident?
    - Did the person lack control over the conditions that resulted in the behavior (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)?
    - Did the person receive or is the person receiving counseling for the problem? Are there clear indications that the problem is being resolved or is under control?
    - Has the person engaged in a good faith effort to repay creditors or otherwise resolve debts?
  - Student loans currently in default should be considered bad credit. However, incidence of bad credit followed by good credit established, indicates an attempt to rectify past credit problems and may be considered acceptable if the incident occurred over three years ago.

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- One or more unpaid collections and judgments are considered to be bad credit. Collections and judgments appear under “Public Records.” Collections and judgments can be paid, marked paid or satisfied but will not be removed from the credit report for seven (7) years. If collections and judgments have been paid and all other credit is satisfactory, the institution may approve, at their discretion.
- Mitigating factors regarding an applicant’s credit report, such as hardships and disputes with creditors, will be considered by the institution’s Background Investigation Committee (BIC) upon submitting objective written evidence, as long as the evidence presented, in the sole opinion of the institution, represents reliable evidence beyond the applicant’s control.
- The institution is not responsible for discovering, researching or verifying that there are possible mitigating factors. The burden of proof to present mitigating factors rests entirely with the applicant.

### Record Retention and Disposing of Background Investigation Reports

Background investigation reports on new or existing employees shall be considered confidential and protected as such. The reports will remain with the Office of Human Resources until the determination on employment or promotion eligibility has been made and then stored separately from the employee’s personnel file. For audit purposes, institutions must store independent record of completion of a background investigation. Criminal and financial background checks on employees must be securely stored and destroyed in accordance with applicable laws and the USG records retention schedule for a period of three (3) years.

Reports for all non-successful applicants for employment and applicants for promotion must be stored and destroyed in accordance with applicable laws and the University System of Georgia (USG) record retention guidelines for three (3) years.

Institutions must take appropriate protective measures to properly store and dispose of sensitive information gathered from background investigations.

### Responsible Parties and Contact Information

Party	Responsibility	Phone/Email/URL
<b>Vice Chancellor for Human Resources, USG</b>	Provide guidance to Institution Chief Human Resource Officers and hiring departments to ensure compliance with policy.	404-962-3235 <a href="mailto:usg-hr@usg.edu">usg-hr@usg.edu</a>
<b>Institution Chief Human Resources Officers</b>	Ensure background investigations are conducted and acted upon in compliance with policy.	See University System <a href="#">HR Officer Listing</a>
<b>Chief Legal Affairs Officer, USG</b>	Provide guidance to Institution Chief Human Resource Officers and hiring departments to ensure compliance with policy.	<a href="#">Legal Officer Listing</a>

### Website Address for This Policy

- [Georgia Archives Retention Schedule](#)

### Appendices (Internal Documents, Forms and Web Links)

- [Background Check Process Workflow](#)
- [BOR Policy Manual, Section 8](#)
- [BOR Policy Manual 6.9 Programs Serving Minors](#)
- HRAP Employment Application
- HRAP General Criteria for Employment
- HRAP Eligibility for Rehire
- [BPM 3.1.3 Background Checks of Supplier Employees](#)
- [BPM 3.3 Purchase Cards](#)
- [FCRA – Sample Preliminary Notice of Adverse Action](#)

### Related Documents and Resources (External)

- [US EEOC Background Checks](#)
- [US EEOC Enforcement Guidance](#)
- O.C.G.A 45-23-5 Ineligibility for Public Employment
- O.C.G.A 35.8.8 and Ga Post Background Manual
- P-Card Holder Background Checks O.C.G.A. §50-5-83
- [Ga Professional Standards Commission - Moral Turpitude](#)
- [US Bankruptcy Code 525A](#)

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