



Comprehensive Background Checks

Responsible Executive: Vice President for Finance & Administration

Responsible Office: Human Resources

Effective: July 1, 2014

Last Revised: December 5, 2022

1. Policy Statement

- 1.1. As a designated land grant and international public research university, employees and volunteers of Oregon State University (university) engage in varied and complex activities, which may involve access to protected, confidential or non-public data (including but not limited to non-public student and employee data, student records, personnel records, research records, and financial data and records), and some of which involve stewardship of public funds, access to minors, and providing sensitive services to members of the university community. Reflective of such access and duties, the university conducts comprehensive background checks on subject individuals as a condition of and prior to employment at or volunteering for the university.
- 1.2. Background checks, including but not limited to sex offender registry checks, criminal records checks, sexual misconduct reference checks, credit reports, motor vehicle history checks, civil record checks, professional license or education/credentials verifications, and any other reports, screening or reviews that will assist in determining fitness, are based on job-related need.
- 1.3. The university requires self-disclosure of criminal convictions by current employees as outlined in Section 5.9 of this policy.
- 1.4. Information discovered through a background check or self-disclosure will not be an automatic bar to employment or continuation of employment and will be considered through an individualized assessment.

2. Reason for Policy

- 2.1. This policy provides notice and a transparent process around comprehensive background checks related to employment or volunteer service. By requiring background checks and through individualized assessments of information obtained as part of these checks, the university affirms through action its commitment to the security of individuals within and associated with the university community and advancing a safe and inclusive environment.

- 2.2. Additionally, this policy ensures that any exclusion from employment, from employment consideration, or from volunteer service based on a criminal conviction or other background check finding is job-related and consistent with business necessity.

3. Scope & Audience

- 3.1. This university policy applies to all units and employees of the university, to applicants seeking a position as an employee of the university, and individuals seeking to volunteer for the university in any capacity.

4. Definitions

- 4.1. **Background check:** A tool used to determine whether an individual is fit for a specific position based on the duties of the position and can include, but is not limited to criminal records checks, sex offender registry checks, credit reports, civil record checks, professional license verifications, sexual misconduct determinations, and any other reports, screening or reviews that will assist in determining appropriateness for a designated position.
- 4.2. **Criminal records check:** The review of criminal records containing any information collected and stored in a state or county repository or the criminal records repository of the Federal Bureau of Investigation.
- 4.3. **Conviction:** A court of law has entered a final judgment on a verdict or finding of guilt, a plea of guilty, a plea of *nolo contendere* (no contest), or any determination of guilt.
- 4.4. **Designated position:** Positions identified by the Chief Human Resources Officer or their designee as requiring a sexual misconduct check.
- 4.5. **Employee:** Persons employed by the university, including, but not limited to academic faculty, professional faculty, classified staff, law enforcement professionals, graduate assistants, and student employees.
- 4.6. **Findings.** A documented conclusion that an individual has engaged in sexual misconduct, resulting from an official investigation or adjudicative process not subsequently reversed through a formal review process. Official investigations include, but are not limited to:
 - 4.6.1. Any investigation of alleged sexual misconduct conducted pursuant to Title IX of the Education Amendments of 1972.
 - 4.6.2. Any investigation of sexual misconduct by the office responsible for making findings regarding allegations of sexual misconduct, or the office responsible for determining sanctions for such conduct.

- 4.7. **Sexual Misconduct.** Conduct that would violate university policies and procedures, including University Policy: 05-001 *Sexual Misconduct and Discrimination*, as they may be modified from time to time; and conduct that violates a current or former employer's policies concerning sexual misconduct, sexual harassment, or the equivalent.
- 4.8. **Sex offender registry check.** A review of the National Sex Offender Public Website hosted by the U.S. Department of Justice or other sex offender registry.
- 4.9. **Subject individual:** Persons currently serving as an employee or volunteer, or persons for whom the university has extended a contingent offer of employment or volunteer service who are subject to a background check or checks pursuant to this policy.
- 4.10. **University-operated youth program:** Any event or activity that involves minors who are unaccompanied by their parent or guardian; is offered by a university representative or unit; and takes place either on or off university property.
- 4.11. **Volunteer:** A person appointed to perform official university duties without compensation or remuneration. Volunteers perform activities at the request of, for the benefit of, and under the supervision of, the university.

5. Responsibilities & Procedures

5.1. General

5.1.1. Sex Offender Registry Checks

- a. The university will conduct sex offender registry checks when offers of employment are made to new hires, offers of transfer are made to current employees, or offers to serve as a volunteer are made to individuals not employed by the university.
- b. The university may require a subject individual to complete a records request form and provide any additional information necessary to complete the sex offender registry check in a reasonable period of time.
- c. The university may require a subject individual to provide personally identifiable information such as names, current and former addresses, social security number, date of birth, a completed disclosure notice and authorization for background investigation form, and, when deemed necessary, fingerprints.
- d. A determination of fitness based on a sex offender registry check is considered a minimum qualification of the position. The fact that a subject individual may be approved as fit based on a sex offender registry check does not guarantee the individual a position as an employee or volunteer.

- e. A sex offender registry check must be conducted every two years or more frequently following date of hire, initial service date, or position assignment for an employee or volunteer providing service in a university-operated youth program.

5.1.2. Criminal Records Checks

- a. The university will conduct criminal records checks when offers of employment are made to a new hire, offers of transfer are made to a current employee, or offers to serve as a volunteer are made to an individual not employed by the university, for positions with access to protected, confidential or non-public data; stewardship of public funds; access to minors; access to student residence halls; access to vulnerable populations inclusive of individuals or animals; responsibilities to provide sensitive services to members of the university community; access to laboratories, nuclear facilities or utility plants to which access is restricted in order to protect the health or safety of the public; access to property where chemicals, hazardous materials and other items controlled by state or federal laws or regulations are located; or other positions identified by the Chief Human Resources Officer or their designee as requiring a criminal records check.
- b. The university may require a subject individual to complete a records request form and provide any additional information necessary to complete the criminal background check in a reasonable period of time.
- c. The university may require a subject individual to provide personally identifiable information such as names, current and former addresses, social security number, date of birth, a completed disclosure notice and authorization for background investigation form, and, when deemed necessary, fingerprints.
- d. The university may elect to waive the criminal records check requirement for a subject individual if, as a pre-requisite to providing service or participating in a program, the subject individual is required to submit to a criminal records check and meet a fitness determination as required and conducted by a state or federal agency. The Chief Human Resources Officer or their designee is responsible for determining if the state or federal agency's criminal records check meets the requirements of this policy.
- e. For those positions that require them, a determination of fitness based on a criminal records check is considered a minimum qualification of the position. The fact that a subject individual may be approved as fit based on a criminal records check does not guarantee the individual a position as an employee or volunteer.

- f. A criminal records check must be conducted every two years or more frequently following date of hire, initial service date, or position assignment for an employee or volunteer providing service in a university-operated youth program.
- g. The crimes which may be relevant to determining the subject individual's fitness include:
 - i. All felonies;
 - ii. All misdemeanors;
 - iii. Any United States Military crime or international crime.

5.1.3. Sexual Misconduct Checks

- a. Upon acceptance of a contingent offer of employment, the university will require the candidate for a designated position to disclose whether there have been findings of sexual misconduct in their current or prior employment.
- b. The candidate will be required to sign and submit a written authorization and release form granting the university authorization to seek information from current and former employers regarding any findings of sexual misconduct regarding the employee and consenting to disclosure of such information by those employers.
- c. A candidate's failure to respond to the inquiry or sign or submit any necessary authorizations may result in withdrawal of any contingent offer of employment and removal from further consideration.
- d. Upon acceptance of a contingent offer of employment and receipt of the authorization and release form, the Office of Human Resources will begin the process of checking for sexual misconduct information. If the contacted current or former employer declines to respond or does not respond in a timely manner, the Office of Human Resources' good faith efforts to obtain the information will be documented.
- e. If the candidate reports there has been a finding against them, the Office of Human Resources shall contact the appropriate employer(s) and request a copy or summary of any findings.
- f. Candidates who have had sexual misconduct findings against them shall receive notice that the university is considering the information in the evaluation of the candidate for employment and be permitted an opportunity to provide an explanation for consideration prior to a final decision. The information will be evaluated, and a decision will be made

regarding whether it is deemed in the best interest of the university to withdraw an applicant from consideration or withdraw an offer of employment at any stage of the application process.

- g. A candidate's failure to respond to an inquiry about findings of sexual misconduct, any dishonesty in response to inquiries about sexual misconduct, or failure to consent to the release of findings of sexual misconduct, may be used as grounds for removal of a candidate from further consideration, withdrawal of any offer of employment already extended to a candidate, or, if discovered after a candidate has begun employment with the university, discipline up to and including termination of employment, subject to policies and procedures applicable to the employee.
- h. All records obtained through the reference checking process will be maintained in accordance with the confidentiality, records retention, and other applicable policies and procedures established by the university, and in accordance with applicable law.

5.1.4. **Credit Background Checks**

- a. Credit background checks are conducted as appropriate for positions with broad and extensive access to financial information about students, faculty, staff, alumni, donors, or research subjects not customarily provided in a retail transaction; certain public safety positions; or other positions as designated by the Chief Human Resources Officer or their designee.

5.1.5. **Motor Vehicle History Checks**

- a. Motor vehicle history checks are conducted according to University Policy 05-030 *Motor Vehicle History Check*.

5.2. **Determination of Fitness to Hold Position Based on Background Check**

- 5.2.1. A background check is intended to verify that the subject individual has not engaged in behaviors related to position responsibilities that would make the individual unfit to perform the responsibilities of the position.
- 5.2.2. The Chief Human Resources Officer or designee will review the information discovered through a background check to determine the subject individual's fitness to hold the position, which will be based on job-related factors and business necessity. Information discovered through a background check will not automatically preclude a subject individual from employment or service with the university. In making the fitness determination, the Chief Human Resources Officer or designee must consider the following:

- a. The nature and gravity of the offense or conduct;
 - b. The relevancy, if any, to the specific requirements of the subject individual's proposed employment or service position;
 - c. The time elapsed since the offense or conduct, or completion of the sentence;
 - d. In the case of a sexual misconduct finding, whether the conduct involved an abuse of power or authority, such as treatment of subordinate employees or students;
 - e. Circumstances relevant to the responsibilities or circumstances of the position including but not limited to the age of the subject individual at the time of the crime or event, or of the commission of another crime or event; subsequent conduct and work history; the subsequent commission of another relevant crime or event; whether the conviction or judgment was set aside and the legal effect of setting aside the conviction or judgment; a recommendation of an employer and a recommendation of a justice system representative.
- 5.2.3. The Chief Human Resources Officer or designee shall evaluate the information discovered through a background check in light of Oregon law, federal law, and, if applicable, the law or the laws of any other jurisdiction in which a background check indicates a subject individual may have acted, as those laws were in effect at the time of the conviction, judgment or event.
- 5.2.4. A subject individual who misrepresents or provides misleading or false information or withholds information as part of the background check process, will be disqualified from further consideration. If it is discovered that the subject individual has provided misleading or false information after a subject individual has been appointed, the subject individual may be disciplined, up to and including termination of employment or service appointment, or rescinding of tenure appointment, pursuant to university policy and governing rules. These determinations will be made following a fitness determination as set forth in this policy.
- 5.2.5. An open criminal or civil case or sexual misconduct investigation may be reason for a final candidate to participate in a fitness determination under this policy depending on the relevancy of the matter(s) to the job responsibilities. The Chief Human Resources Officer or their designee is responsible for determining relevance in these situations.

5.3. Refusal to Consent

- 5.3.1. Refusal to consent to any requested background check may cause the university to revoke an offer of employment or deny service as a volunteer. Current employees who refuse to consent may be disciplined, up to and including termination, consistent with other university rules, policies or collective bargaining agreements.
- 5.3.2. A subject individual may not appeal a termination of candidacy due to refusal to consent to a criminal records check.

5.4. **Incomplete Fitness Determination**

- 5.4.1. The University will close a fitness determination as incomplete when:
 - a. The person no longer meets the definition of a “subject individual;”
 - b. The subject individual does not provide information or materials within a reasonable period of time;
 - c. The University cannot locate or contact the subject individual;
 - d. The University determines that the individual is not eligible or qualified for employment or service for a reason unrelated to the fitness determination process; or
 - e. The position is no longer open.
- 5.4.2. A subject individual does not have the right to a hearing to challenge the closing of an incomplete fitness determination.

5.5. **Offer of Employment or Service**

- 5.5.1. Appointment of a subject individual is contingent on the university’s determination of fitness based on the background check.
- 5.5.2. Generally, the background check process must be completed and a satisfactory determination of fitness to hold the position must be made before a subject individual commences employment or service unless an exception has been approved by the president in consultation with the Chief Human Resources Officer.

5.6. **Notice and Opportunity to Appeal Fitness Determination**

- 5.6.1. The university will comply with and follow the background check notice requirements of the federal Fair Credit Reporting Act.
- 5.6.2. A current employee or volunteer who is determined not to be fit for a position on the basis of information obtained as part of a background check

may appeal the determination through procedures established by the Chief Human Resources Officer.

5.6.3. A person for whom the university has extended a contingent offer of employment or volunteer service and who is determined not to be fit for a position on the basis of information obtained as the result of a background check may appeal the determination through procedures established by the Chief Human Resources Officer.

5.6.4. The remedy available to the subject individual under the appeal process is a determination that the applicant is fit. Under no circumstances will the university be required to place a subject individual in any position or be required to accept the individual's services in any capacity. The decision of the Chief Human Resources Officer is final.

5.6.5. The university is not required to delay or postpone its hiring process or its decisions regarding employment or service to the institution because of a pending appeal.

5.7. Restricted Access to and Maintenance of Background Check Information

5.7.1. Access to information obtained in the background or sexual misconduct reference check is restricted. The university restricts access to and dissemination of that information to only those university employees with a demonstrated and legitimate need to know the information. Background check information will be maintained in the Office of Human Resources or the Department of Public Safety.

5.7.2. Supervisors and other university employees will generally not be provided information regarding a subject individual's background check and will be informed only that the subject individual either has a satisfactory or unsatisfactory fitness determination. Background information will only be disclosed to a hiring supervisor or other university employees where the Chief Human Resources Officer determines that person has a demonstrated and legitimate need to know the information and the Chief Human Resources Officer specifically approves the disclosure.

5.8. Fees Associated with Conducting Background Checks

5.8.1. The university hiring or service department is responsible for fees associated with conducting background checks.

5.9. Required Notification to the University of Convictions

- 5.9.1. All employees and volunteers are required to notify the Employee and Labor Relations Office if they are convicted of a crime within five business days of the conviction.
- 5.9.2. If the Chief Human Resources Officer or their designee determines that the conviction may affect the employee or volunteer's fitness to carry out the duties or functions of their position, the university may require the employee or volunteer to consent to a background check as outlined in this policy.
- 5.9.3. If the university makes an adverse fitness determination under this policy, the employee or volunteer may be removed from the position where consistent with other university rules, policies or collective bargaining agreements.
- 5.9.4. Failure to report relevant convictions pursuant to this section may result in disciplinary action, up to and including termination or removal from volunteer service.
- 5.9.5. If the university receives a report of a conviction, judgment, or other relevant information that should have been reported to the Chief Human Resources Officer or their designee under this section, or would be discoverable through a background check, and that report is disputed by the employee, the university may require a background check to confirm the report.

6. Forms & Tools

- 6.1. [Standards of Behavior for Adults Working in Programs and Activities with Minors](#) form.

7. Frequently Asked Questions

- 7.1. None.

8. Related Information

- 8.1. Background check program changes: <https://hr.oregonstate.edu/aabc/background-check-program-changes>.
- 8.2. University Policy 05-030 *Motor Vehicle History Check*.
- 8.3. University Policy 07-040 *Safety of Minors*.
- 8.4. Insurance and Risk Management Services Volunteer Criteria: <https://risk.oregonstate.edu/volunteer/volunteer-criteria>.

9. History

- 9.1. Adopted: Oregon State University adopted University Standards 576-055 *Criminal History Check* and 580-023 *Criminal Background Checks* from Oregon Administrative Rules 576-055 *Criminal History Check* and 580-023 *Criminal Background Checks* on July 1, 2014.
- 9.2. Revised: University Standards 576-055 *Criminal History Check* and 580-023 *Criminal Background Checks* were revised on March 30, 2020.
- 9.3. Revised: University Standards 576-055 *Criminal History Check* and 580-023 *Criminal Background Checks* were consolidated, revised, renumbered, and adopted as interim University Policy 05-010 *Comprehensive Background Checks* on December 5, 2022.
- 9.4. Next scheduled review date: December 2023.

10. Website

- 10.1. <https://policy.oregonstate.edu/policy/comprehensive-background-checks>.

11. Contacts

Department	Phone Number	Website
Human Resources	541-737-3103	https://hr.oregonstate.edu/
Employee and Labor Relations	541-737-	https://hr.oregonstate.edu/employees/employee-and-labor-relations