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Guideline Title: UMSO Employee Background Review Guidelines

Guideline Number: HR-INTERNAL-06

Functional Area: Human Resources

Brief Description: The Employee Background Guidelines sets forth the guidelines for the President’s Office in conducting employee background reviews/CORI (Criminal Offender Record Information) in accordance with the UNIVERSITY OF MASSACHUSETTS POLICY ON EMPLOYEE BACKGROUND REVIEWS (Doc. T10-088 (Passed by the BoT 12/8/10) and accompanying Standards.

Effective: 9/19/16

Responsible Office: Office of Human Resources

Last Reviewed/Updated: NEW

THE POLICY

University of Massachusetts Policy on Employee Background Reviews

Doc. T10-088 (Passed by the BoT 12/8/10)

The University of Massachusetts is committed to providing a safe and secure environment that is supported by qualified employees for all of its students, faculty, staff, and residents to carry out the University’s teaching, research, and public service missions. As a condition of employment, the University will conduct appropriate background reviews for all new hires. This policy will be implemented in a manner consistent with the rights of privacy, equal opportunity, and academic freedom afforded to those who serve the University.

SUBJECT TO GUIDELINES

All successful finalist candidates for University of Massachusetts System Office/President’s Office (“UMSO” or “UMass President’s Office”) positions, which may include, full-time/part-time (benefited and non-benefited), temporary, seasonal, volunteer, student/intern, post retiree appointments and/or rehire/transfers, shall be subject to this policy and guidelines.

DEFINITIONS

Finalist Candidate: A candidate that has been selected and provided a conditional offer and acceptance letter from UMSO.

Post Retiree: An employee who has retired from the University/Commonwealth of Massachusetts and has returned to the UMass President’s Office on a part-time, non- benefited and temporary basis.

Transfer: A successful Finalist Candidate who is actively employed at a UMass campus at the time the offer is made by the UMSO and, upon acceptance of the offer, will end their employment with the campus and be employed by the UMass President’s Office. Transfers from state agencies other than UMass are considered a new hire and NOT a Transfer.

Rehire: A successful Finalist Candidate who was previously employed with UMass, left the employ of

UMass and, upon acceptance of the offer, will be re-employed by the UMass President's Office.

UMASS PRESIDENTS OFFICE GUIDELINES

1. The University of Massachusetts Policy on Employee Background Reviews (the "Policy") and UMSO Employee Background Review Guidelines, ("Guidelines") shall apply to UMass President's Office positions that are filled by appointment on a full-time or part-time basis, including non-benefited, temporary, seasonal, volunteer, student/intern positions, Post Retiree appointments, Rehires and/or Transfers. This Policy and Guidelines shall apply to those appointments where the employee will have more than a casual physical presence in a facility where the activity is taking place. Non-resident alien hires who are appointed on a full-time or part-time basis, will be deemed to have satisfied the requirements of the Policy and Guidelines, provided such non-resident alien new hires have satisfied all relevant federal visa and federal I-9 employment requirements as determined by the Department of Home Land Security and/or the State Department. The Policy and Guidelines do not replace any federal or state statutory requirements to conduct certain background reviews as a condition for employment on a specific occupation. The Policy and Guidelines will be implemented in a manner consistent with the rights of privacy, equal opportunity, and academic freedom afforded to those who serve the UMSO President's Office.
2. Successful Finalist Candidates appointed on a full-time or part-time basis, including non-benefited, temporary, seasonal, volunteer, student/intern positions, Post Retiree appointments and Rehires and/or Transfers shall be subject to a background review/check that includes the following: criminal/felony background check, verification of education, previous employment, reference check, and licensure (only if the licensure is required as a condition of employment or has been cited on an application, resume, Curriculum Vitae, or cover letter by the applicant). In addition, the President's Office may require as a condition of employment for appropriate positions, other background reviews such as financial history, credit, and motor vehicle records.
3. A statement related to the requirement of employee background reviews may be included in employment information including pre-employment forms, employment application, and applicant acknowledgment letters and offer and acceptance letters.
4. As further described above, every successful Finalist Candidate at the UMass President's Office shall be subject to a background review as indicated in the Policy, performed by a University Background Verification Vendor or through iCORI. iCORI may be utilized if the successful Finalist Candidate has lived in Massachusetts only, over the last 10 years. As a condition of employment, other applicable background reviews/checks may be conducted such as: financial history, credit, and motor vehicle records. The positions that will include additional reviews will be determined before the position announcements or advertisements are published.
5. Pre-employment forms and/or employment application forms (including any online application process) shall not include any requirement for the applicant to disclose any criminal convictions or pending criminal charges, except as may be allowed by law.
6. The successful Finalist Candidate for each position shall be required to complete a pre-employment form/offer letter, on which he/she attests that he/she understands that his/her employment is subject to a background review/Criminal Offender Record Information (CORI) and authorizes said review. The scope of the background review will be determined by the hiring manager and disclosed on the pre-employment form/offer letter. Successful Finalist Candidates refusing to complete the acknowledgement section of their pre-employment form/offer letter may not be considered for employment. A background review/CORI cannot be processed without a signed consent by the successful Finalist Candidate. A successful Finalist Candidate may receive a copy of his/her background review/CORI at no charge by requesting it.

7. Only staff within the Office of Human Resources, UMass President's Office, that have been certified by the Criminal History Systems Board (CHSB) of the Executive Office of Public Safety of the Commonwealth to review CORI, or a vendor which the University of Massachusetts has contracted with that is certified to perform background checks, shall review the results of the background check/CORI. These individuals will compare the information on the background review/CORI with the information on the pre-employment form, employment application form, resume, letter(s), or any other relevant documentation provided by the successful Finalist Candidate to ensure the background review/CORI belongs to the successful Finalist Candidate. If the information in the background review/CORI does not exactly match the identification information provided by the successful Finalist Candidate, additional forms of government identification may be requested.
8. If the UMass President's Office reasonably believes the information contained in the criminal background review/CORI is accurate, then a determination will be made regarding the suitability of the successful finalist candidate. Unless otherwise provided by law, a background review/CORI record will not automatically disqualify a successful Finalist Candidate from consideration. However, the information contained in a background review/CORI record may be used in making the final determination of suitability for the position consistent with the Policy and Guidelines. Successful Finalist Candidates will be given the option of disclosing their criminal background review/CORI to the hiring authority, by executing an allowed said disclosure.

The factors to consider for suitability include; but, are not limited to:

- a. Relevance of the record to the position sought;
 - b. Relationship of the criminal act to the nature of the work to be performed;
 - c. The time since the conviction;
 - d. The age of the successful Finalist Candidate at the time of the offense;
 - e. The seriousness and specific circumstances of the offense;
 - f. The number of offenses;
 - g. Whether the successful Finalist Candidate has pending charges;
 - h. Any relevant evidence of rehabilitation or lack thereof; and
 - i. Any other relevant information, including information submitted by the successful Finalist Candidate or requested by the UMass President's Office.
9. Prior to making an adverse decision based upon the results of a background review/CORI, the President's Office shall:
 - a. Notify the applicant in person, by telephone, fax, electronic or hard copy correspondence of the potential adverse employment action;
 - b. Provide a copy of the successful Finalist Candidate's CORI, or criminal history information including the source of the other criminal history information, (if the information was received from a source other than the Department of Criminal Justice Information Services "DCJIS");
 - c. Provide a copy of the University's Policy and UMSO Guidelines;
 - d. Identify the information in the successful Finalist Candidate's background review/CORI that is the basis for the potential adverse action;
 - e. Provide the applicant with the opportunity to dispute the accuracy of the information in the background review/CORI;
 - f. Provide the applicant with a pre-adverse action disclosure that includes a copy of the consumer report and a copy of the document "A Summary of Your Rights under the Fair Credit Reporting Act," which is a document published by the Federal Trade Commission;
 - g. Provide the applicant with a copy of the Department of Criminal Justice Information Services (DCJIS) information regarding the procedures for correcting a criminal record; and
 - h. Document all steps taken to comply with these requirements.

10. If a successful Finalist Candidate believes that the reported background review/CORI is inaccurate, the successful Finalist Candidate may challenge the accuracy of the background review information and have such background check information reviewed by the Assistant Vice President of Human Resources within the UMass President's Office. All appeal requests must be made in writing and submitted to the Assistant Vice President of Human Resources within the UMass President's Office within ten (10) business days of the applicant for employment's notice of the background review/CORI. The appeal process will be in accordance with the provisions of the Federal Fair Credit Reporting Act (FCRA) and the Criminal Offender Record Information (CORI) law.
11. The hiring manager may provide the successful Finalist Candidate a conditional offer and acceptance letter, and the successful Finalist Candidate may start employment prior to the successful completion of a background review, provided that the successful finalist candidate signs and dates a statement to the effect that the offer of employment is contingent or conditioned on the successful completion of a background review/CORI including a criminal history background check. The hiring manager must notify, in writing, the Assistant Vice President of Human Resources that the hiring manager intends to make such a contingent or conditional appointment.
12. All background record materials related to the criminal information contained in the background reviews/CORI will be maintained in locked files, or secure electronic files, separate from employment and/or personnel files in the Office of Human Resources, UMass President's Office. The UMass President's Office will only share background reviews/CORI with individuals within the organization who have a need to know the contents to serve the purpose for which the background review was obtained. The Office of Human Resources President's Office, will keep a "secondary dissemination log" for a period of one year following the dissemination of any individual's background review. The secondary dissemination log will include:
 - a. The name of the individual;
 - b. The individual's date of birth, the date of the dissemination;
 - c. The name and, per the regulations, the organization of the person to whom it was disseminated; and the specific purpose of the dissemination.

The Office of Human Resources, UMass President's Office, in consultation with any other appropriate offices, such as the University General Counsel's Office, will review these guidelines at least annually and submit changes to the Senior Vice President of Administration and Finance, as needed.