

Policy Number: 6-709	Policy Name: Mandatory Background Checks for Employees and Process for Hiring, Retaining, or Terminating Employees Convicted of a Felony Offense
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6-709 Mandatory Background Checks for Employees and Process for Hiring, Retaining, or Terminating Employees Convicted of a Felony Offense

The Arizona University System’s faculty and staff are expected to meet high admission, performance and ethical standards. Accordingly, the universities shall develop policies incorporating a common set of principles that mandate comprehensive and reliable reference checks and background investigations before offering employment to candidates. In addition, the universities shall develop policies that result in prompt administrative actions, consistent with due process of law, for any university employee who has been convicted of a felony offense.

A. Definitions

1. “Reference check and background investigation” means any communication with an employee’s or applicant’s current or former employer that concerns the education, training, experience, qualifications and job performance of the employee or applicant and that is used for the purpose of evaluating the employee or applicant for employment. It may also include the results of any academic credentials check, any state or federal criminal history record check and the results of any state motor vehicle department record check.
2. “Conviction” means a criminal felony offense or other criminal conviction that may indicate unsuitability for university employment.
3. “Security” or “safety sensitive position” will be defined at each university and will include those positions with the potential to expose the university to extensive liability.

B. The hiring policies shall set forth the process for:

1. Requiring disclosure of all convictions by the finalist, including internal hires, for each administrative, service professional, classified, faculty and academic professional position;

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2. Securing criminal background information on each finalist, including internal hires, for employment and fingerprint checks on each finalist who indicates, or is determined through background investigation, that she/he has a prior conviction;
  3. Fingerprinting and conducting criminal history checks on each finalist, including internal hires if this was not conducted when the employee was initially hired, for security, safety-sensitive positions, and such other designated positions as are deemed appropriate by the university; including but not limited to, jobs in programs which require or allow for the unsupervised provision of services directly to minors who are not enrolled students of the university;
  4. Conducting background investigations, which shall include at least reference checks and verification of employment information with past employers on all final candidates for employment;
  5. Conducting academic credentials checks for faculty positions and other designated positions;
  6. Designating felony offenses, based on level of severity, which would require presidential approval before an offer of employment could be extended; and
  7. Taking appropriate action when the finalist makes false representations or omits material factual information.
- C. The policies relating to the retention or termination of an employee who has a record of a criminal conviction prior or subsequent to being hired shall at a minimum include a process for the following measures. The extent of these measures shall be determined based upon the level of severity of the offense, the amount of time that has passed since the offense was committed, and other factors deemed relevant by the university:
1. Placing the employee on administrative leave when the university becomes aware of the felony conviction;

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2. Conducting an immediate review of the circumstances surrounding the commission of the offense;
  3. Providing due process to employees in accordance with Board and university policies before taking disciplinary action; and
  4. Taking disciplinary action commensurate with the offense, which may include dismissal from employment.
- D. In considering whether to hire, retain, or terminate an employee who has been convicted of a felony offense prior to or after employment, the universities shall consider the following factors:
1. Whether the nature of the felony is relevant to the duties of the employee;
  2. If the felonies were committed by a minor for which proceedings were held under the jurisdiction of a juvenile or an adult court;
  3. If the employee or prospective employee has been pardoned or if the sentence has been commuted or reversed on appeal; and
  4. The employee's or prospective employee's employment history since the commission of the felony.
- E. A university may release the results of a reference check and background investigation to another university under the jurisdiction of the Arizona Board of Regents for employment purposes.
- F. The universities shall submit the policies developed pursuant to this policy to the President of the Board of Regents. The policies shall be subject to review by Board Counsel for consistency with this policy.