Scope

This policy describes the Board of Regents’ expectations of University of Wisconsin System institutions and the University of Wisconsin System Administration in performing criminal background checks on applicants for employment, current employees, and volunteers (REGENT POLICY DOCUMENT 20-19).

Purpose

UW-Eau Claire is committed to providing a high quality, secure and safe learning and working environment for its students, workforce, partners and clients. One practice that aids in providing a safe and secure campus is the use of criminal background checks for prospective employees. UW-Eau Claire will conduct criminal background checks for all employees who serve in positions of trust: Those areas are identified in section 1, “Positions of Trust”.

Policy Statement

The University of Wisconsin - Eau Claire, under the direction of University of Wisconsin System policy and Regent Policy 20-19, is required to perform criminal background checks on prospective employees.

Except as otherwise stated in this policy, the Board of Regents policies require that a criminal background check shall be performed on each new hire for a UW System position. Criminal background checks shall be conducted on candidates recommended for hire, either prior to the extension of an offer of employment, or as part of an offer of
employment that is made contingent upon a successful criminal background check. Employees returning to work after a break in service shall be subject to a new criminal background check if the break in service is one year or longer.

A criminal background check shall also be conducted on current employees and volunteers holding a “position of trust with access to vulnerable populations” as defined below, provided they have not previously been subject to such a criminal background check by the University. Employees and volunteers holding a position of trust with access to vulnerable populations shall be subject to a criminal background check every four years, and shall be required to self-disclose certain criminal offenses.

1. Position of Trust

“Position of trust” is defined as a paid or volunteer position with one or more of the following responsibilities:

**Accesses to vulnerable populations** – 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 not enrolled or accepted for enrollment at UW Eau Claire. Examples of settings with vulnerable populations include child care centers, summer camps for minors, precollege or enrichment programs, and health care facilities. This category also includes employees who are not directly working in those units, but have unsupervised access to the unit when the vulnerable population is present. This category does not include faculty or instructional academic staff performing regular teaching, service, and research responsibilities unless these responsibilities include unsupervised or significant access to vulnerable populations.

**Property access** – Responsibilities requires the use of master keys/card access and pertains to employees with key access to offices, facilities, or worksites other than their own worksite, including UW residential housing facilities.

**Financial/fiduciary duty** – Principal responsibilities (50% or more) 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 paying over 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.

**Executive positions** – Responsibilities involve top-level management functions throughout the institution including roles as Chancellor, Provost, and Dean. Executive positions are defined as all limited appointments and include any movement from a limited appointment to a different limited appointment.

2. Coverage of Employee Groups, Prospective Hires and Employees

Criminal background checks must be conducted on prospective hires who are not University of Wisconsin employees, and on employees currently not in a position of trust who are seeking to move to a position of trust within the University through promotion or otherwise.

Criminal background checks must be conducted on current employees holding a position of trust with access to vulnerable populations, as defined in paragraph 1(a) of this policy, who have not previously been subject to a criminal background check by the University. UW Eau Claire shall ensure that a criminal background check is performed every four years on employees in positions of trust with access to vulnerable populations.

3. Coverage of Vendors and/or Vendor Services for Contractors

To the maximum extent feasible, any agreement with a vendor or contractor whose employees, affiliates, or volunteers will have routine or unsupervised access to vulnerable populations (minors or medical patients) in the course of the contract must include a representation from the vendor or contractor stating that these employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected by the contractor that includes a check of the vendor’s proprietary national criminal background check database.

4. Coverage of Volunteers

UW Eau Claire shall perform criminal background checks on prospective volunteers when the volunteer position involved is a position of trust, or when required by law to perform criminal background checks for specified volunteer positions. UW
Eau Claire will determine whether a criminal background check should be conducted on prospective volunteers, and will consider the level of direct supervision and guidance provided to volunteers and the nature of the duties of the volunteer position.

Criminal background checks must be conducted on current volunteers holding a position of trust with access to vulnerable populations as defined in this policy, who have not previously been subject to a criminal background check by the University. UW Eau Claire will ensure that a criminal background check is performed every four years on volunteers in a position of trust with access to vulnerable populations.

5. Coverage of Certain Users and Lessees of University Lands and Facilities

Facilities use agreements or leases with outside organizations that use or lease University lands and facilities to operate multi-day programs for minors, or programs for minors that involve an overnight stay, must include a representation from the organization that its employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected by the organization that includes a check of the vendor’s proprietary national criminal background check database.

6. Conducting Criminal Background Checks

Finalists for employment must complete and sign a criminal background check authorization form. An applicant’s failure to consent to a criminal background check or falsification of any related information is grounds for the rejection of the applicant. Similar procedures must be implemented for current employees, volunteers and prospective volunteers who are subject to criminal background checks.

A criminal background check on prospective hires, employees and volunteers must include a check provided by a criminal background check vendor that includes the following components:

- **Social Security Number Trace**
  
  Authenticates the individual’s information and generates a list of addresses the individual has lived at for the last seven years; as part of the trace, the
University may verify that the social security number is valid and appropriately assigned to the individual.

- **Criminal Felony/Misdemeanor by County of Residence**
  Superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.

- **Sex Offender Registry – sex offender search by state.**

- **National Criminal Background Database**
  Search of the vendor's proprietary national criminal background check database.

- **Wisconsin Department of Justice**
  If there is proof that the individual has never lived in Wisconsin, this check may be waived.

UW Eau Claire will conduct an appropriate U.S. criminal background check on an applicant for employment, current employee or volunteer who is a foreign national and subject to this policy.

A criminal background check in the individual’s prior country (ies) of residence will be also conducted if his/her country (ies) of residence provides a criminal background check for the time period during which the individual was a resident. A media search is not considered an appropriate criminal background check.

7. Application of the “Substantial Relationship Test under the Wisconsin Fair Employment Act

Wisconsin law prohibits an employer from discriminating against an applicant or employee on the basis of arrest or conviction record unless the pending criminal charge or conviction substantially relates to the circumstances of the position. Applicants with a criminal history will not be automatically disqualified from employment, and a current employee’s criminal history will not result in automatic disciplinary action or dismissal. If an applicant’s or employee’s criminal background check reveals a pending criminal charge or criminal conviction, UW Eau Claire Human Resources staff must engage in an individual analysis and will determine whether a substantial relationship exists between the pending charge or criminal conviction and the functions of the position.

Information collected in connection with the background check will be treated
confidentially to the extent permitted by the Wisconsin Public Records Act and other applicable laws. An individual or individuals in Human Resources will be designated as responsible for all aspects of conducting criminal background checks. Employees authorized to collect or review the background check information will be appropriately trained, with the completion of training documented. The individual(s) responsible for maintaining records will be asked to sign a confidentiality agreement.

8. Self-Disclosure of Arrests, Charges or Convictions

UW Eau Claire will require employees who hold positions of trust with access to vulnerable populations, as defined in this policy, to report any criminal arrests, charges, or convictions (excluding misdemeanor traffic offenses punishable only by fine) to the director of human resources within twenty-four (24) hours or at the earliest possible opportunity. Failure to make the required report may constitute a violation and may result in disciplinary action, up to and including dismissal. The same procedures will be implemented for volunteers who hold a position of trust with access to vulnerable populations.

9. Statutorily Mandated Criminal Background Checks

Notwithstanding anything in this policy, institutions shall continue to perform criminal background checks for certain, specified positions in the form and manner required by state or federal law. Laws mandating criminal background checks for certain positions include: the Wisconsin Caregiver law (covering prospective caregivers for vulnerable populations such as minors, as well as those licensed by the state to provide direct health care services and treatment to clients); the Wisconsin Fiduciary law (covering positions that involve accounting, auditing, financial management, accounts receivable, accounts payable, procurement, retail operations, tax and fee collections, payroll, and handling of cash and checks); and the federal Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agricultural Protection Act of 2002 (covering employees who will handle and work with hazardous agents or materials in campus labs, buildings or storage facilities).

Employees who are appointed to a position where criminal background checks are required by State and Federal law (for example: the Wisconsin’s Caregiver Law (Wisconsin Statutes, Chapters 48 and 50), Fiduciary Responsibility Law (Wisconsin Statutes, Section 230.17(3) and other applicable laws) will collaborate with Human Resources to assure proper background checks are conducted.

10. Other Criminal Background Checks
Nothing in this policy shall be construed to prevent a UW System institution with a reasonable basis from obtaining, at any time, criminal background check information on any current employee or volunteer.