

Criminal Convictions Check Frequently Asked Questions

Why does UNC-Chapel Hill conduct employment background checks?

The University is committed to providing a safe and secure environment for students, faculty, staff, visitors and other constituents and to protecting its funds, property, and other assets. Well-informed hiring decisions facilitate this effort.

Therefore, the University does not employ individuals with prior criminal convictions who pose an unacceptable risk to the University or its employees, students, and visitors. This policy establishes procedures for carrying out a criminal conviction check for prospective employees.

Who is subject to a background check?

- All Faculty: paid or unpaid, permanent or temporary, including adjunct, fixed-term, tenure track and tenured, prior to initial appointment.
- All EPA Non-Faculty: permanent, temporary, full-time, part-time; prior to hire, promotion, or transfer.
- All SPA: permanent, temporary, full-time, part-time; prior to hire, promotion or transfer.
- All temporary employees (Tar Heel Temps and direct hire temporary employees); prior to hire.
- Post-Doctoral Fellows, Medical Fellows, and Chief Medical Residents prior to hire.
- Others as determined by UNC-Chapel Hill Human Resources and/or UNC-Chapel Hill Counsel.

If an existing University employee changes positions, is a new criminal convictions check required?

SPA employees who are promoted or transfer to a new position as a result of a promotion or transfer must have a new criminal convictions check. EPA non-faculty employees who have a job change to a new position, either through a competitive recruitment or a waiver of recruitment from the EEO Office, must also have a new criminal convictions check. Faculty employees are subject to a criminal convictions check only at the time of their initial appointment.

Is a criminal convictions check still performed for an individual who has no Social Security number (SSN) or discloses that they have never lived or work in the United States before?

Yes, if the individual has no SSN or no prior residential or work history in the United States, this should be indicated on the criminal convictions check form and the form submitted to UNC Public Safety. UNC Public Safety will make a best faith effort to confirm that no residential history or criminal conviction checks have been recorded for this individual. Depending on how common a name the individual has, without an SSN, Public Safety may not be able to obtain a meaningful residential history or criminal convictions check result, in which case they will indicate that on the criminal convictions check form returned to the hiring department or the Office of Human Resources (for SPA permanent positions).

Are all student employees exempt from checks?

It depends. It is not necessary to conduct checks for UNC-Chapel Hill students if their employment is “incidental to” their primary role as a student – such as graduate assistants or work-study students. If a student graduates or doesn’t re-enroll and the department wishes to continue his/her employment,

the “temp/student” assignment must be terminated, and he/she must be hired as “temporary staff.” Such hires require a background check.

An individual whose primary purpose for being at UNC-Chapel Hill is to work as a temporary or regular employee -- even if he/she is also registered for one or more classes is considered an “employee” rather than a “student” and is subject to the criminal convictions check requirement.

Is a candidate from another State agency or another institution in the UNC System required to have a check?

Yes. Any finalist who is employed at another State agency or university must have a criminal convictions check completed.

What types of checks are conducted?

Criminal history checks are conducted for all candidates in any state where the candidate has lived or worked. Motor vehicle-related convictions (such as DUI convictions) appear on these records. Additionally, for positions in which a driver’s license is required as an essential function of the position, the hiring department can also request a North Carolina Driver’s License (“NCDL”) check from the Criminal Check Division in the Department of Public Safety.

Does a candidate have to give permission for a check to be conducted?

Yes. Applications include the individual’s authorization for the University to conduct a criminal convictions check. In compliance with federal requirements, candidates complete and sign an Authorization for Criminal Conviction Check form available at: <http://hr.unc.edu/formfinder/forms-employment/crimcheck.doc>. If a candidate declines to give permission then no check will be conducted; however, because a background check is a requirement for employment, he/she cannot be employed by the University.

How long will the background check take?

Results will continue to be returned to the School/Department within one business day for applicants that have not lived or worked out-of-state as determined by a residency history check. A 2-4 business day turnaround time is anticipated for applicants that have lived or worked out-of-state. The current practice of notifying the School/Department contact if the out-of-state check will take longer than 4 business days will be continued.

What form do I use?

To streamline the background check process, we have combined the two previously separate Authorization for Criminal Conviction Check forms. The revised form is available at <http://hr.unc.edu/formfinder/forms-employment/crimcheck.doc>. Please note that routing the form is different for Faculty and other University applicants and employees as specified in the appropriate policy. Faculty policy is found at <http://hr.unc.edu/EPA-Data/Faculty/facultycrimck> while the policy for other categories of employees is found at <http://hr.unc.edu/Data/SPA/recruitment/spa-hiring/crimcheck>.

Is there additional paperwork required?

Only if a candidate is disqualified wholly or in part due to the results of the criminal convictions check. In that case, the following notifications are required under the federal Fair Credit Reporting Act.

If a criminal convictions check is a factor in the hiring decision, the candidate must be sent the following material

- a registered letter (sample letter at <http://hr.unc.edu/Data/SPA/recruitment/spa-hiring/crimcheck/crimcheckpre-adverseltr.doc>)
- a copy of the criminal convictions check report; and,
- a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” available at <http://www.ftc.gov/bcp/online/pubs/credit/fcrasummary.pdf>.

The candidate has ten calendar days after receipt of above material to respond with any additional information they want the University to consider.

A second registered letter must be sent to the candidate after the 10 day period if the criminal convictions check is a factor in deciding not to hire the candidate (sample letter at <http://hr.unc.edu/Data/SPA/recruitment/spa-hiring/crimcheck/crimcheckadverseactionltr.doc>).

Does previous criminal conviction(s) disqualify an applicant from consideration for employment?

No, previous conviction(s) does not automatically disqualify a candidate from consideration for employment. Eligibility for employment depends on a variety of factors such as the nature of, and circumstances surrounding, the crime; the time elapsed since the conviction; the rehabilitation record; the actions and activities of the individual since the crime (including his/her work history); the truthfulness and completeness of the candidate in disclosing the conviction; and the relevance of the conviction to the job.

Can the results of a background check affect a current employee’s job even if the check was conducted for promotion or transfer purposes?

If the current employee is discovered to have falsified information on current or previous applications -- or if the results of the background check are relevant to their current duties – appropriate action will be taken, up to and including dismissal.

What information do candidates need to disclose on the application and release form?

Candidates must disclose all convictions for unlawful offenses. “All convictions” includes guilty pleas, guilty verdicts, prayers for judgment (PJC), and non-contested charges. Reportable convictions include not just “serving jail time,” but also paying fines or restitution. Examples: DUI, DWI, worthless checks, violations of local ordinances or state laws that result in fines, misdemeanors, felonies, etc.

Candidates do not need to list conviction(s) for which they have court documentation that the conviction(s) has been sealed or expunged.

Candidates should list all convictions, even if the candidate thinks the incident was minor. If a candidate is unsure of his/her record, he/she may obtain a copy of his/her criminal records from the

appropriate county courthouse (such as the Wake County Courthouse). A candidate may obtain a copy of his/her driving record from the Department of Motor Vehicles.

What happens if a candidate does not disclose all conviction information?

Falsification, including misrepresentation or a failure to disclose information (omission) as part of the application process or on the release form, may disqualify a candidate from employment whether or not the falsification was intentional. Current employees may be subject to appropriate disciplinary action, up to and including dismissal.

How does the hiring department know the result of the check?

The Office of Human Resources (“OHR”) or the DPS Criminal Check Division notifies the hiring department of clearance. If the criminal convictions check is not clear, the hiring department will receive further guidance from OHR, or receive a copy of the criminal convictions report from the DPS Criminal Check Division, depending upon the category of the position for which the candidate is applying.

How does the candidate know the result of the check?

If the check confirms no convictions, the hiring department should contact the candidate to finalize the employment offer and establish a start date. If the hiring department decides not to proceed with hiring the candidate due wholly or in part to the results of the criminal convictions check, then the OHR or the hiring department provides written notice to the candidate, consistent with federal requirements – both before and after any action is taken. Whether this is the responsibility of OHR or the hiring department depends upon the category of the position for which the candidate is applying. Please refer to the appropriate policy for details.

Can the candidate get a copy of his/her criminal convictions check?

Yes, if adverse action was taken due wholly or in part to the results of the criminal convictions check, the OHR or the hiring department (depending upon the category of position the candidate has applied for) will provide appropriate contact information in its written notification to the candidate so he/she can obtain a copy of the information that was provided to the University.

How much will the background check cost, and how will it be paid?

The cost will remain \$25 per background check for those candidates who have not lived or worked outside of North Carolina as determined by a residency history check. The costs of Castle Branch’s out-of-state background checks will be charged to the hiring department. Castle Branch services are priced by number of counties searched and range from \$13 for one county to \$54 for seven or more counties. If applicable, these out-of-state charges will be paid through the same budget transfer process as the current \$25 per background check.

What type of funds can be used to pay for criminal background checks?

The University Division of Finance advises that departments charge the criminal background check fee to funds that match the position's funding. For example, if a position is primarily funded by state monies, then the criminal background fee can be funded by a state account. However, since most contract and grant funding institutions consider the background check fee as an overhead expense. such as telephone, IT support, etc, background checks for grant funded positions should be charged to F&A (formerly known as overhead funds).funds. If a department has a discretionary gift fund then that fund may be used for background checks also.

How do I get a driver's license check?

A North Carolina Driver's License ("NCDL") check is performed for all TEACCH candidates. Additionally, when a position requires a driver's license as an essential function, the hiring department can also request a NCDL check from the DPS Criminal Check Division. When applicable, the NCDL check is included in the \$25 base fee. If required, an out-of-state Driver's License check will be provided by Castle Branch and will cost \$12-\$28 per State depending upon the State.

Where do I send the form and who do I contact with additional questions?

Forms continue to be sent to:

Background Investigator, Criminal Check Division
UNC Department of Public Safety
AOB, Room 2404, CB# 1620
fax number 919-962-4279

Please contact Captain Danny Caldwell, 962-9768, and Theresa Todd, 843-4413 if you have additional questions.