

# Background Checks

Personnel – General Provisions

**EWU Policy 401-03**

**Authority: EWU Board of Trustees**

**Effective: October 9, 2020**

**Proponent: Vice President for Business and Finance**

**Purpose:** This policy prescribes responsibilities, requirements and associated procedures for conducting background checks on individuals currently employed by, seeking employment with, or seeking a volunteer position with Eastern Washington University.

**History:** This policy supersedes the previous version dated February 23, 2018. It was adopted by the EWU Board of Trustees (BOT) on October 9, 2020.

**Applicability:** This policy pertains to persons currently employed by or seeking employment or a volunteer position with Eastern Washington University, including student and non-student temporary employees.

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## CHAPTER 1 – BACKGROUND CHECKS

**1-1.** Eastern Washington University shall complete pre-employment criminal and/or credit background checks on any individual who has been selected as the best qualified candidate to fill a position having access to vulnerable populations and/or money or items of value as described in this section. Such background checks shall be completed prior to employment absent written approval from the Associate Vice President for Human Resources or his/her designee. These requirements also apply to any volunteers whose activities may involve similar access. Volunteer background checks shall be completed prior to the commencement of volunteer work.

### **a. Access to Vulnerable Populations**

The university requires criminal background checks for employees and volunteers whose duties involve unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults.

### **b. Access to Money or Items of Value**

The University may require criminal background and/or credit background checks for employees and volunteers whose duties involve receipt of, or accountability for, university funds or other items of

value. The university may require a credit background check, pursuant to RCW 19.182.020, when credit report information is substantially related to the duties of the position or required by law.

### **1-2. University Police Department**

The university may require criminal background checks for all applicants for employee and/or volunteer positions with the University Police Department pursuant to RCW 43.43.760(3). Fingerprinting and background investigations may also be required for positions involving access to criminal history records through a criminal justice agency, as required by such agencies, or for positions that may have access to the Washington State Patrol crime lab located on the Cheney campus. All investigations under this subsection are conducted by the University Police Department.

### **1-3. Grant Funded Positions**

The University may require a criminal background check for any new or current employee who has been selected as the best qualified candidate to fill a position funded by a grant when the terms of the grant require a criminal background check. For positions in Early Head Start, the University must conduct a sex offender registry check, a state criminal history check with fingerprints, a Federal Bureau of Investigation criminal history check with fingerprints, and a check of the child abuse and neglect state registry when such registry is available. The University must also conduct a complete background check under this section at least once every five years during a person's employment in an Early Head Start position.

## CHAPTER 2 – LICENSES AND CREDENTIALS

### 2-1. Driver's License Checks

Applicants, employees, and volunteers, whose duties require driving a state vehicle, must provide the university with a copy of their valid driver's license.

### 2-2. Credentials and Reference Checks

The appointing authority, or designee, is responsible for conducting reference checks and for verifying credentials and/or professional licenses of prospective employees prior to an offer of employment.

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## CHAPTER 3 – SEXUAL MISCONDUCT DISCLOSURES

For purposes of this chapter and in accordance with RCW 28B.112.040, "sexual misconduct" includes, but is not limited to, unwelcome sexual contact, unwelcome sexual advances, requests for sexual favors, other unwelcome verbal, nonverbal, electronic, or physical conduct of a sexual nature, sexual harassment, and any misconduct of a sexual nature that violates EWU's policies or has been determined to constitute sex discrimination pursuant to state or federal law.

### 3-1. Applications

In accordance with RCW 28B.112, any person who applies for a position at EWU, except student employees, must fill out a sexual misconduct disclosure statement at the time of application. This also applies to graduate assistants. The form will include:

a. A declaration of whether the applicant is the subject of any substantiated findings of sexual misconduct in any current or former employment or is currently being investigated for, or has left a position during an investigation into, a violation of any sexual misconduct policy at the applicant's current and past employers, and, if so, an explanation of the situation;

b. Authorizing the applicant's current and past employers to disclose to EWU any sexual misconduct committed by the applicant and making available to EWU copies of all documents in the previous employer's personnel, investigative, or

other files relating to sexual misconduct by the applicant; and,

c. Releasing the applicant's current and past employers, and employees acting on behalf of that employer, from any liability for providing such information.

### 3-2. Sexual Misconduct Records From Previous Employers

Beginning July 1, 2021, prior to making an official offer of employment, for any faculty, instructor, staff, advisor, counselor, coach, athletic staff position, or graduate assistant, or any other position that will have direct ongoing contact with students in a supervisory role or position of authority, EWU must:

a. Request in writing that the applicant's current and past postsecondary educational institution employers inform EWU if the applicant was found responsible for committing sexual misconduct and, if so, to provide copies of all documents in the previous employer's personnel, investigative, or other files relating to sexual misconduct by the applicant. EWU will provide the other institution with a copy of the release signed by the applicant; and, b. Ask the applicant if the applicant is the subject of any substantiated findings of sexual misconduct, or is currently being investigated for, or has left a position during an investigation into, a violation of any sexual misconduct policy at the applicant's current and past employers, and, if so, to provide an explanation of the situation.

### 3-3. Disclosure to Hiring Institutions

If EWU receives a request under RCW 28B.112.080 from a postsecondary educational institution for records relating to an applicant who was or is employed at EWU, EWU will provide the information requested and make available to the requesting institution copies of documents in the employee's personnel record relating to substantiated findings of sexual misconduct to the extent permitted by statute. Any requests for such information should be forwarded to Human Resources to respond.

Additionally, if EWU has information about substantiated findings of a current or former employee's sexual misconduct, unless otherwise prohibited by law, EWU shall disclose that information to any employer conducting reference or background checks on the current or former employee for the purposes of potential employment,

even if the employer does not specifically ask for such information.

When providing information to a potential employer, EWU shall keep personal identifying information of the complainant and any witnesses confidential, unless the complainant or witnesses agree to disclosure of their identifying information.

### 3-4. Evaluation of Information

Any information gathered under this chapter regarding substantiated findings of sexual misconduct by an applicant may only be used by EWU for the purpose of evaluating the applicant's qualifications for employment.

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## CHAPTER 4 – ADMINISTRATION

### 4-1. Responsibilities

a. Human Resources will:

- (1) designate positions requiring a criminal and/or credit background check;
- (2) ensure background check requirements are specified on position advertisements; and
- (3) coordinate required background checks.

b. Departments are responsible for expenses relating to background checks for their employees and volunteers.

### 4-2. Conditional Employment

Departments may employ applicants on a conditional basis pending completion of background checks only if they have received written approval to offer a position contingent on passing a background check from the Associate Vice President for Human Resources prior to making such offer. If a criminal history background check reveals disqualifying crimes or civil findings as provided in Chapter 43.43 RCW, the person may not continue working in the position.

### 4-3. Use of Background Checks

Background checks may only be used to evaluate prospective employees and transfer candidates for employment purposes for those positions specifically identified in chapter one of this policy, except for Early Head Start. Background checks are required every five years for employees in a position funded by an Early Head Start grant and the results of such

check may be used to determine the person's continued employment.

### 4-4. Previous Criminal Convictions

A previous criminal conviction does not automatically disqualify applicants from consideration for employment with the university or volunteers from being engaged.

Eligibility for specific positions will depend on a variety of factors such as the nature of, and circumstances surrounding, any crime(s); the time elapsed since conviction and rehabilitation record; the actions and activities of the individual since the crime(s), including the individual's subsequent work history; the truthfulness and completeness of the prospective employee's disclosure of the conviction(s); whether the crime is a disqualifying crime pursuant to chapter 43.43 RCW; and any other relevant information. Records pertaining to convictions will be evaluated in light of the provisions of Chapter 9.96A RCW.

In addition to the factors listed above, for positions funded by an Early Head Start grant, eligibility will also depend on the factors described in 42 U.S.C. § 9858f(c)(1)(D), h(1).

### 4-5. Adverse Action

Before the university takes any adverse action based in whole or part on the results of a criminal or credit background check, including denial of employment or any other decision for employment purposes that adversely affects a current employee or job applicant, the university shall provide the individual to whom the report relates:

- (i) The name, address, and telephone number of the agency providing the report;
  - (ii) Statement that the credit reporting agency did not make the decision to take the adverse action and is unable to provide the individual with the specific reasons why the adverse action was taken;
  - (iii) a description of the individual's rights under the Fair Credit Reporting Acts pertaining to consumer reports obtained for employment purposes; and
  - (iv) a reasonable opportunity to respond to any information in the report that is disputed by the individual.
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## CHAPTER 5 – PROCEDURES

### 5-1. Notices and Consent

#### a. Job Announcements

The university shall include a notice in position announcements that informs potential applicants if a criminal background and/or consumer credit report may be obtained for purposes of considering the individual for employment/volunteer status.

#### b. Disclosure and Consent

Applicants and volunteers must disclose whether they have been convicted of a crime; and/or had any findings made against them in any civil adjudicative proceeding as defined in RCW 43.43.830.

Before obtaining a criminal or credit history check on a prospective employee or volunteer, the university shall obtain written consent from the prospective employee or volunteer or, in the case of Early Head Start, current employee. Applicants and volunteers who fail to provide written consent will not be considered for positions that require a background check and, for those positions with ongoing background checks, current employees may be subject to corrective or disciplinary action.

#### c. Notice of Results

The university shall notify the applicant, volunteer or current employee of the results of the background check as soon as practicable. The university shall also provide the applicant/volunteer with a copy of the response to the background check.