

Office/Contact: Office of Human Resources

Source: SDBOR Policies 4.1.9, 1.7.4 and 1.6.4

Link: <https://public.powerdms.com/SDRegents/documents/1726691>;

<https://public.powerdms.com/SDRegents/documents/1729415>;

<https://public.powerdms.com/SDRegents/documents/1729393>

SOUTH DAKOTA STATE UNIVERSITY Policy and Procedure Manual

SUBJECT: Employment Background Checks


NUMBER: 4:1

1. Purpose

In accordance with SDBOR Policy 4.1.9, the University identifies positions of employment that require a background check. The following University policies and procedures are designed to promote a safe and secure environment for faculty, staff, students, volunteers, and visitors and to lessen unnecessary risk. This policy supports the verification of credentials, criminal history, credit status, and other information related to employment decisions.

2. Definitions

- a. Background Check: the process of acquiring records regarding a final candidate that is used to determine suitability for employment. This may include, as defined by SDBOR Policy 4.1.9:
 - i. Credit History Check,
 - ii. Criminal History Check,
 - iii. Educational Verification,
 - iv. Employment Verification,
 - v. License Verification,
 - vi. Limited Criminal History Check,
 - vii. Limited Sex and Violent Offender Registry Check,
 - viii. Sex and Violent Offender Registry Check, and/or
 - ix. Sanction Check.
- b. Fair Credit Reporting Act: the federal law that regulates collection, dissemination, and use of consumer credit information.
- c. Final Candidate: an internal or external applicant identified as the finalist for the position of employee or volunteer.
- d. Favorable Background Check: a Background Check that does not indicate any criminal record, information inaccuracies or discrepancies, or other position related concerns.

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9. Any other position funded by a contract which lawfully requires a Background Check (e.g. National Child Study).
 - ii. The University will perform educational and employment verifications on all post verbal offer accepted, pre-employment candidates consistent with the job requirements of the position (e.g. all teaching positions, deans, directors, managers, information technology, fiscal affairs positions, VPs, etc.).
 - iii. The University will perform licensure verifications for all positions for which it is a requirement for the individual to perform their job duties, and the absence of which would expose the University to legal liability, adverse public reaction, or both (e.g. nurses, electricians, counselors, engineers, pharmacists, legal counsel, drivers, police officers, etc.).
 - iv. When a Background Check must be conducted by a consumer credit agency, the University will contract for such services through the vendor selected or approved by the SDBOR.
 - v. HR may determine additional background checks are required for a position not designated in this policy in conformity with applicable law and SDBOR policy.
 - d. Notices and advertisements for open positions must provide notification that Final
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- k. If unreported debarments, sanctions list, or convictions are revealed in the Background Check, the offer of employment may be withdrawn and, if employed, the individual could be subject to discipline, unless the individual shows that the report is in error. The decision to reject or discipline an individual with an unreported debarment, sanctions list, or conviction is solely at the discretion of the University or SDBOR.
- l. When a new employee is not subject to a Background Check under this policy, Shared Services is responsible for sanction check screening if necessary based on the employee's job duties and responsibilities.
- m. HR is responsible for application, notifications, and training related to this policy and its procedures.

4. Procedures

- a. The hiring unit will initiate recruitment effort and submit position duties information in accordance with applicable hiring procedures.
- b. HR will determine appropriate Background Check requirements for the position in accordance with applicable law and job-related duties for the position in question and consistent with business necessity.
- c. HR may, at its discretion, elect to rely on Background Checks recently conducted by other means and forgo requiring an additional Background Check. Situations of this nature include, but are not limited to, the following:
 - i. HR may elect to rely on the criminal background check conducted during the U.S. Government VISA process if a candidate has entered the United States on a VISA less than thirty (30) days prior to the offer of employment and forgo requiring an additional criminal background check.
 - ii. HR may elect to rely on the criminal background check conducted for University programmatic entry and forgo requiring an additional criminal background check.
- d. Notice that a position requires a Background Check will be included in the job announcement.
- e. All offers for volunteer appointments, employment, or promotion where a Background Check is required, verbal or written, shall state: "This offer is contingent on the University's verification of credentials and other information required by law and/or University policies, including, but not limited to, a criminal background check."
- f. HR will initiate the Background Check after the candidate has accepted the initial offer. The hiring proposal is then in a "Conditionally Hired" status. Candidate may not begin duties until the University has received the results of the Background Check and finally approved engagement of the candidate.

- g. The candidate must sign an appropriate release (electronic) for the Background Check. The Background Check Disclosure, Authorization, and Release form as well as the Summary of Your Rights under the Fair Credit Reporting Act will be used and applicable laws will be followed.
- h. HR will review the final results of the Background Check and contact the hiring manager upon completion of the required Background Check.
 - i. Background Check information is considered sensitive and confidential. HR will only release results to hiring managers or administrators if there is a potential concern about the results of the Background Check in relation to the essential functions of the job and on a need-to-know basis.
 - ii. Upon receipt of a Favorable Background Check, the hiring manager will be notified that the conditional offer may be confirmed.
 - iii. Upon receipt of information that gives rise to potential concern, HR will notify the Final Candidate in conformity with applicable law, including notice of right to dispute the accuracy of reports.