

## ***General Policy - Criminal History Background Checks – Job Applicants/Employees***

### **Policy:**

Effective March 19, 2008, criminal history checks (CHC) are authorized and/or required before a person may begin employment with Bismarck State College as outlined below.

### **Procedures:**

1. As stated in SBHE Policy 602.3, a nationwide Federal Bureau of Investigation (FBI) criminal history records (CHRC) check is required before beginning employment in the following positions:
  - a. Police officer; and
  - b. Security Guard.
  
2. A CHC check, which may be a North Dakota Bureau of Investigation (BCI) check, a nationwide FBI check or check of another state or multiple jurisdictions, and a Sex Offender Registry (SOR) check are required before beginning employment in the following positions:
  - a. All benefited positions; and
  - b. Non-benefited positions, including volunteers who:
    - I. have access to confidential or proprietary information;
    - II. have master keys;
    - III. have access to cash, credit, debit or other financial transactions;
    - IV. are resident hall and/or apartment managers, directors or assistants;
    - V. are childcare employees and other employees who have unsupervised contact with minor children;
    - VI. are responsible for, or with access to, controlled substances and other drugs, explosives or potentially dangerous chemicals and other substances;
    - VII. are instructional faculty and staff, including graduate teaching assistants; and,
    - VIII. are counselors and coaches.
  
3. A CHC check and SOR check will be conducted on:
  - a. New hires: includes
    - I. Individuals never before employed by the institution.
    - II. Re-hires, if the individual's break in service exceeds 12 months or unless the position or newly-assigned duties indicate that different checks or verification are

required.

III. Transfers from another NDUS institution.

IV. Transfers and promotions within the same institution, if an individual has never completed a CHRC or CHC and SOR for the institution.

4. CHC and SOR checks are required every 24 months for volunteers and temporary hires for camps and other activities that involve minors.
5. The CHC shall, at a minimum include:
  - a. All names/aliases for the past seven (7) years;
  - b. All addresses for the past seven (7) years;
  - c. Federal criminal background check using primary source;
  - d. County criminal background check using primary source;
  - e. Nationwide sex offender registry check.
6. The SOR list shall be the Nationwide Sex Offender Registry. The CHC and SOR checks must be completed before beginning employment. If there is an urgent documented need to start employment within seven working days of selection and prior to the completion of the check, the employee may begin work as scheduled, under proper supervision; however, continued employment is subject to successful completion of the checks.

### **Authorization:**

1. The supervisor (in consultation with the Chief Human Resources Officer and appropriate administrators) will determine the nature and scope of the CHC.
2. Human Resources will electronically submit job applicant/employee first and last name and email address to the CHC vendor. The CHC vendor will send the job applicant/employee an e-invite to complete an electronic consent and disclosure form which will then direct the applicant/employee to a data collection portal. The applicant/employee will also read the State Law Notices Regarding Employment Background Report and Summary of Rights Under the Fair Credit Reporting Act. Human Resources will work with the job applicant/employee to ensure this process is completed.

### **Guidelines for Reviewing Criminal History Reports:**

1. Convictions are not an absolute bar to employment but will be considered in relationship to the job requirements.
  - a. The supervisor (in consultation with the Chief Human Resources Officer and appropriate administrators) will consider the following when reviewing a criminal history report:
    - The nature, severity and frequency of the offense or offenses;
    - When the offense or offenses happened; and

- Whether a criminal conviction has a direct bearing on the individual's ability to fulfill job duties and responsibilities.
- b. An employment offer may be withdrawn, or an employee may be terminated as a result of the above considerations.
2. Deliberate failure to disclose criminal conviction information may constitute cause for rejection of the applicant's application or termination of employment.

**Reference:**

SBHE Policy: 602.3 Job Applicant/Employee Criminal History Background Checks

NDUS Procedure: 602.3 Job Applicant/Employee Criminal History Background Checks

NDCC Section 12-60-24

**History of This Policy:**

First policy draft January 23, 2009. Amended and approved by the Operations Council on January 28, 2009 and by the Executive Council on February 27, 2009.

Revisions – August 27, 2010; December 21, 2010; September 1, 2011; reviewed by the Operations Council on February 22, 2016 and approved by the Executive Council on March 23, 2016; reviewed by the Operations Council on March 22, 2017 and approved by the Executive Council on April 12, 2017; reviewed by the Operations Council on March 11, 2020 and approved by the Executive Council on March 26, 2020.