50.16 -- Criminal Background Check Procedures

A. **General.** Criminal background checks confirm an individual’s suitability relative to the requirements of their employment or volunteer service at the University of Idaho (UI). The UI requires criminal background checks on the successful candidate(s) for each faculty (including temporary faculty) and staff position recruitment, internal or external. **Criminal background checks are also required prior to hiring a graduate assistant, teaching assistant or research assistant.** UI also requires criminal background checks for non-student hourly employees (temporaries), student workers, interns and volunteers if their work will involve significant contact with minors and also recommends checks for individuals considered for positions where the hiring authority determines the work to be security-sensitive. UI will conduct criminal background checks on current employees as required for reclassifications and promotions (this does not apply to general faculty promotions in rank pursuant to FSH 3560 where the faculty promotion does not involve an internal or external search. **Non-compliance of this policy will be communicated to the Office of General Counsel and the related Vice-President.** [rev. 11-12, 12-14]

B. **Procedures for Criminal Background Checks.** The University will conduct criminal background checks on the successful candidate(s) for each faculty and staff position recruitment, internal and external and every potential new employee or volunteer when their work involves significant contact with minors. [rev. 11-12]

Hiring authorities may and are encouraged to request criminal background checks for non-student hourly employees, student workers, interns, volunteers, reclassifications and promotions that involve an individual potentially hired or moving into a position considered security sensitive.

Security sensitive may include access to restricted facilities, resources, finances, data, confidential information or research as determined by the hiring authority. [add. 11-12]

B-1. **Required Notification of Criminal Background Checks.** All advertisements, notices, and postings for positions listed as requiring a background check will state: “This position is subject to the successful completion of a criminal background check.” Successful candidates for these positions will be offered the position contingent on a satisfactory criminal background check. No candidate for a position requiring a background check shall commence employment until a satisfactory criminal background check has been received.
For volunteer positions and other positions for which a search was not necessary or waived, the hiring authority will notify the individual in writing of the criminal history background check requirement prior to offering the position. The candidate must not begin the new responsibilities until satisfactory results are received by Human Resources. [add. 10-07, ed. 11-12]

B-2. Required Authorization for Criminal Background Check. If a search is run through PeopleAdmin, the criminal background check is initiated during the hiring proposal process. For hires outside of PeopleAdmin, the hiring authority will contact HR by email at crimcheck@uidaho.edu to request a background check on the final candidate(s) and including: candidate(s) name, email address; position title/position number; budget number; and job vacancy announcement number. HireRight will contact the candidate(s) via email to initiate the background check. The candidate submits his or her personal information at a secure website and electronically signs the Disclosure to Consent form. The candidate will receive a summary of rights under the Fair Credit Reporting Act (FCRA). Once the candidate has submitted his or her personal information and electronically signs the Disclosure and Consent form, the background check will begin ordered. The third party consumer reporting agency will provide the background check results to HR. Upon receipt of the information pertaining to the background check, HR determines if the individual meets the criteria for the position and will notify the hiring authority by email. [rev. 11-12, 12-14]

Costs associated with criminal background checks will be charged to the hiring unit.

B-3. Contingent Offer of Employment. If circumstances require that a job offer be made quickly to a candidate, prior to the completion of the background investigation, the offer must be in writing and include the following statement: “This offer is contingent upon the completion of a satisfactory criminal background investigation.” Although the offer may be made, the employee may not begin work in any capacity, including attending New Employee Orientation, for the University without a completed satisfactory background investigation.

B-4. Prior Criminal Background Check Qualifies. If the candidate has had a criminal background investigation completed by the UI within the last 13 months and the results are satisfactory for the position for which s/he is applying, a subsequent investigation may be
waived at the discretion of the Executive Director for Human Resources or designee. [rev. 10-07, 11-12]

B-5. Day Care Centers Must Comply with I.C. § 39-1105. This policy does not apply to employees or volunteers at day care centers who have direct contact with children. These individuals are subject to the criminal history check procedures set forth in I.C. § 39-1105, which are conducted by the day care centers in conjunction with the appropriate state agencies.

B-6. UI College of Agricultural and Life Sciences Unique Requirements. The University’s College of Agricultural and Life Sciences (CALS) has implemented its own criminal background check procedures for volunteers who have significant contact with minors. Students and volunteers of CALS may be subject to additional screening requirements pursuant to that policy. [rev. 10-07, ed. 11-12]

C. Procedures for Criminal Background Checks for Security Purposes. If the Executive Director for Human Resources has reasonable grounds to believe that an employee or volunteer may represent an immediate threat to the safety and security of the University community or to the public, s/he or designee may conduct a criminal background check through the Idaho State Police or other appropriate agency. The written authorization of the employee to conduct this check will be obtained in most cases; however, circumstances may exist in which obtaining a written authorization is not possible or feasible, in which case a limited background check through the Idaho State Police or other appropriate agency may be done. Any information obtained through this process will be used solely for the purpose of maintaining the safety and security of the UI community and will be shared strictly on a “need to know” basis. [ed. 11-12]

D. Results of Criminal Background Checks. If the criminal background check identifies convictions, with the exception of D-1 below, determinations of suitability for employment will be based on factors that include the nature and details of the conviction, the length of time that has passed since the conviction, how the crime relates to the job in question, evidence of rehabilitation and other factors. When current employees with convictions are considered for new positions or potentially reclassified or promoted into a security sensitive position, the Executive Director for Human Resources or designee, in consultation with the hiring authority, will determine whether to exclude the candidate and initiate potential personnel action. In these cases, the Executive Director for Human Resources or designee, in consultation with the Risk Management Officer and Unit Manager, will
determine what personnel action if any, should be taken. The Executive Director for Human Resources may ask for a written explanation of the offense from the employee. [rev. 11-12]

D-1. **Disqualifying Employment Convictions.** For positions involving significant contact with minors, a record of any of the following convictions will result in automatic exclusion of the candidate or termination of a current employee:

i) Conviction of any crime against a child or vulnerable adult (including but not limited to child abuse, abandonment, neglect, and statutory rape);

ii) Conviction of any crime of violence;

iii) Conviction of any crime of a sexual nature, including but not limited to lewd conduct, sexual battery, sexual exploitation, rape, and statutory rape;

iv) Conviction of any crime involving unlawful use or possession of a weapon or firearm. [ed. 11-12]

D-2. “**Convictions**” Defined. For purposes of this policy, the term “conviction” will be interpreted broadly and will include pleas of no contest, deferred adjudications, and similar dispositions. If a criminal history report indicates pending criminal charges that, if a conviction resulted, would result in exclusion from employment, the candidate will be excluded from employment until final disposition of the charges.

**E. Communication of Results and Employee Rights**

E-1. **Consumer Reporting Agency.** Procedures when the report has been provided by a consumer reporting agency (e.g., HireRightPeopleWise). [ed. 12-14]

i) If a determination has been made that a candidate should be excluded, or that adverse action should be taken against a current employee, based on an unsatisfactory criminal background check, HR shall, prior to taking any adverse action against the individual, provide a Pre-Adverse Action Disclosure that (1) notifies the individual in writing of the unsatisfactory result, (2) provides the candidate or employee with a copy of the report, and (3) provides the candidate or employee with a
written description of his or her rights under the Fair Credit Reporting Act.

ii) After the adverse action has been taken, HR will provide the candidate with an Adverse Action Notice, which includes (1) the name, address, and phone number of the consumer reporting agency that supplied the report; (2) a statement that the consumer reporting agency that supplied the report did not make the decision regarding the adverse action and cannot provide the reasons for the adverse action; and (3) a notice of the individual’s right to dispute the accuracy or completeness of any information the agency has furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.

iii) A candidate or employee who has received an initial unsatisfactory result and who has sought correction of his or her report under the Fair Credit Reporting Act is not eligible for a listed position until the Executive Director for Human Resources or designee has confirmed the correction and determined that the result is satisfactory. The University has no obligation to hold a position open to allow a candidate or employee to correct his or her report. [ed. 11-12]

E-2. Government Reporting Agency. Procedures when the report has been provided by a governmental agency (e.g., Idaho State Police) are as follows:

i) If a decision has been made to exclude a candidate, or initiate action against a current employee, based on an unsatisfactory background check, HR shall (1) notify the individual in writing of the unsatisfactory result, and (2) provide the candidate or employee with a copy of the report.

F. Record Keeping. Criminal history information collected under this policy shall be kept electronically with the third party vendor. The information will be used solely for the purpose of maintaining the safety and security of the University of Idaho community and will be disclosed only as permitted or required by law. [rev. 10-07, 11-12]