Purpose
To provide a safer campus environment for students, employees and visitors.

Policy Statement
Except as otherwise provided in this policy, a criminal background check shall be performed on each new hire for a UW-River Falls position. Criminal background checks shall be conducted on candidates recommended for hire, either prior to the extension of an offer of employment, or as part of an offer of employment that is made contingent upon a successful criminal background check. A criminal background check shall also be conducted on current employees and volunteers holding a "position of trust with access to vulnerable populations" as defined in paragraph 1(a) of this policy who have not previously been subject to such a criminal background check by the University. Employees and volunteers holding a position of trust with access to vulnerable populations shall be subject to a criminal background check every four years, and shall be required to self-disclose certain criminal offenses.

Policy
This policy addresses the following:

Position of Trust

1. "Position of trust" is defined as a paid or volunteer position with one or more of the following responsibilities:

   a. Access to vulnerable populations – Responsibilities require unsupervised or significant access to vulnerable populations, defined as minors and medical patients. For purposes of this policy, a minor is a person under the age of eighteen (18) who is not enrolled or accepted for enrollment at a UW-System institution. Examples of settings with vulnerable populations include child care centers, summer camps for minors, precollege or enrichment programs, and health care facilities. This category also includes employees who are not directly working in those units, but have unsupervised access to the unit when the vulnerable population is present. This category does not include faculty or instructional academic staff performing regular teaching, service, and research responsibilities unless these responsibilities include unsupervised or significant access to vulnerable populations.

   b. Property access – Responsibilities require the use of master keys/card access and pertains to employees with key access to offices, facilities, or worksites other than their own worksite, including UW residential housing facilities.

   c. Financial/fiduciary duty - Principal responsibilities (50% or more) require handling, receiving, or having custody of money, checks or securities, or accounting for supplies or other property; authorizing (or making appropriations for) expenditures; approving, certifying,
signing or countersigning checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or service of process; maintaining or auditing accounts of money, checks, securities, time records, supplies, or other property, or taking physical inventories of money, checks, securities, supplies, or other property.

d. Executive positions - Responsibilities involve top-level management functions throughout the institution including roles as Chancellor, Provost, and Dean. Executive positions are defined as all limited appointments and include any movement from a limited appointment to a different limited appointment.

2. Coverage of Prospective Hires and Employees

Criminal background checks must be conducted on prospective hires who are not University of Wisconsin employees, and on employees currently not in a position of trust who are seeking to move to a position of trust within the University through promotion or otherwise. Criminal background checks must be conducted on current employees holding a position of trust with access to vulnerable populations, as defined in paragraph 1(a) of this policy, who have not previously been subject to a criminal background check by the University. UW-River Falls will perform a criminal background check every four years on employees in positions of trust with access to vulnerable populations.

Notwithstanding the preceding paragraph, unless otherwise required by law to perform background checks for specified positions or unless the position involved has been designated as a "position of trust," UW-River Falls may determine whether a criminal background check must be conducted on prospective hires for the following employee groups: (1) temporary or limited term employees; (2) hourly student employees; and (3) interns. In making this determination, UW-River Falls should consider the level of direct supervision and guidance provided to employees in these categories and the nature of the duties of the job.

3. Coverage of Rehires

Criminal background checks must be conducted on rehires (including rehired annuitants), who have not been in active employment status with UWRF for a period greater than 12 months. If the new position is considered a position of trust, a recheck every four years will be required as stated in this policy.

4. Coverage of Vendors and Contractors

To the maximum extent feasible, any agreement with a vendor or contractor whose employees, affiliates, or volunteers will have routine or unsupervised access to vulnerable populations (minors or medical patients) in the course of the contract must include a representation from the vendor or contractor stating that these employees, affiliates, or volunteers have satisfied a contractor that includes a check of the vendor’s proprietary national criminal background check database. See Addendum 2 for standard contract verbiage.
5. **Coverage of Volunteers**

UW-River Falls shall perform criminal background checks on prospective volunteers when the volunteer position involved is a position of trust, or when required by law to perform criminal background checks for specified volunteer positions. Otherwise, UW-River Falls may determine whether a criminal background check should be conducted on prospective volunteers. In making this determination, institutions should consider the level of direct supervision and guidance provided to volunteers and the nature of the duties of the volunteer position.

Criminal background checks must be conducted on current volunteers holding a position of trust with access to vulnerable populations, as defined in paragraph I (a) of this policy, who have not previously been subject to a criminal background check by the University. It is UW-River Falls policy to ensure that a criminal background check is performed every four years on volunteers in a position of trust with access to vulnerable populations.

6. **Coverage of Certain Users and Lessees of University Lands and Facilities**

Facilities use agreements or leases with outside organizations that use or lease University lands and facilities to operate multi-day programs for minors, or programs for minors that involve an overnight stay, must include a representation from the organization that its employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor selected by the organization that includes a check of the vendor’s proprietary national criminal background check database.

7. **Conducting Criminal Background Checks**

Finalists for employment must consent to a criminal background check. An applicant’s failure to consent to a criminal background check or falsification of any related information is grounds for the rejection of the applicant or rescinding of contingent job offer. Similar procedures must apply to current employees, volunteers and prospective volunteers who are subject to criminal background checks.

A criminal background check on prospective hires, employees and volunteers will include a check of the Wisconsin Department of Justice, Crime Information Bureau electronic database, and a check provided by a criminal background check vendor that includes the following components:

- Social Security Number Trace – Authenticates the individual’s information and generates a list of addresses the individual has lived at for the last seven years; as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the individual.
- Criminal Felony/Misdemeanor by County of Residence – superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.
- Sex Offender Registry – sex offender search by state.
- National Criminal Background Database – search of the vendor’s proprietary national criminal background check database.
University officials will have certain additional duties under the federal Fair Credit Reporting Act when retaining a vendor to perform criminal background checks.

Additional criminal and non-criminal checks (e.g., motor vehicle, etc.) may be run when appropriate in relation to the position.

UW-River Falls will conduct an appropriate U.S. criminal background check on an applicant for employment, current employee, or volunteer who is a foreign national and subject to this policy. A criminal background check in the individual’s prior country(ies) of residence will also be conducted if his/her country(ies) of residence provides a criminal background check for the time period during which the individual was a resident. A media search is not considered an appropriate criminal background check and, therefore, UW-River Falls is not required to conduct media services.

8. **Application of the "Substantial Relationship" Test Under the Wisconsin Fair Employment Act**

Wisconsin law prohibits an employer from discriminating against an applicant or employee on the basis of arrest or conviction unless the pending criminal charge or conviction substantially relates to the circumstances of the position. Applicants with a criminal history will not be automatically disqualified from UW System employment, and a UW System employee’s criminal history will not result in automatic disciplinary action or dismissal. If an applicant’s or employee’s criminal background check reveals a pending criminal charge or criminal conviction, UW-River Falls must engage in an individual analysis to determine whether a substantial relationship exists between the pending charge or criminal conviction and the functions of the position.

9. **Self-Disclosure of Arrests, Charges, or Convictions**

UW-River Falls requires employees who hold positions of trust with access to vulnerable populations, as defined in paragraph I (a) of this policy, to report any criminal arrests, charges, or convictions (excluding misdemeanor traffic offenses punishable only by fine) to human resources, or to whomever the institution designates as the appropriate individual to receive a report, within twenty-four (24) hours or at the earliest possible opportunity. Failure to make the required report may constitute a violation and may result in disciplinary action, up to and including dismissal. The same procedures must be implemented for volunteers who hold a position of trust with access to vulnerable populations.

10. **Statutorily Mandated Background Checks**

Notwithstanding anything in this policy, UW-River Falls shall continue to perform criminal background checks for certain, specified positions in the form and manner required by state or federal law. Laws mandating criminal background checks for certain positions include: the Wisconsin Caregiver law (covering prospective caregivers for vulnerable populations such as minors, as well as those licensed by the state to provide direct health care services and treatment to clients); the Wisconsin Fiduciary law (covering positions that involve accounting, auditing, financial management, accounts receivable, accounts payable, procurement, retail operations, tax and fee collections, payroll, and handling of cash and checks); and the federal Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agricultural Protection Act of 2002 (covering employees who handle and work with hazardous agents or materials in campus labs, buildings or storage facilities).
11. **Other Criminal Background Checks**

Nothing in this policy shall be construed to prevent UW-River Falls with a reasonable basis from obtaining, at any time, criminal background check information on any current employee or volunteer.

**Authority**

The UW-River Falls Chancellor issues this policy in accordance with the Administrative Policy process. The Assistant Chancellor for Business and Finance is responsible for the administration of this policy. Request an exception to this policy by writing to administrative-policy@uwrf.edu.

**Sanctions and Appeals Process**

Failure to adhere to the provisions of this policy may result in appropriate disciplinary action as provided under existing procedures applicable to students, faculty, and staff, and/or civil or criminal prosecution.

**Procedure**

1. **Hiring.** UW- River Falls incorporates the following steps into its hiring process. This applies to all vacancies:

   a. **Announcing a Vacancy** – All vacancy announcements (including ads) should contain the following statement: “Employment will require a criminal background check."

      The following language also may be added to vacancy announcements and ads: "A pending criminal charge or conviction will not necessarily disqualify an applicant. In compliance with the Wisconsin Fair Employment Act, the University does not discriminate on the basis of arrest or conviction record."

   b. **Offering a Position** – Criminal background checks may be completed prior to making an offer of employment. If a check is not completed before an offer is made, the check must be completed prior to commencement of employment, except in special cases approved by the Director of Human Resources or designee. In most cases, only the applicant being offered the position will be checked. However, there may be circumstances where more than one applicant is checked.

   c. **Appointment Letters** – If an appointment is offered contingent on the successful completion of a criminal background check, or an employee is permitted upon approval of the Director of Human Resources or designee to commence employment pending completion of a check, the appointment letter must state the appointment will be withdrawn or terminated if the individual's criminal background check results are unacceptable. The following statement may be used in the appointment letter.

      “This appointment is conditional pending the results of a criminal background check. The appointment will be withdrawn or terminated if the results are unacceptable.”

   **Consent** – Prior to conducting a criminal background check, the University will have the candidate consent and supply the necessary information to complete a criminal background check. Individuals
who do not consent within the designated time will no longer be considered a candidate for the vacancy.

2. Conducting Criminal Background Checks. Criminal background checks will be performed by the Human Resources Office to include checks of records in all jurisdictions deemed prudent. The following process will be used:

a. Human Resources will identify at least one employee to manage criminal background checks. This individual(s) will be responsible for all activities involved with the checks including determining the scope, conducting checks, referring checks to outside vendors, and making recommendations on results. A key component of this role involves keeping information confidential except on a need-to-know basis or as required by the Public Records Act. A breach of confidentiality, or the inappropriate use of criminal background check information, may constitute a work rule violation and may be grounds for disciplinary action.

b. The employing unit or department is responsible for notifying Human Resources that a check needs to be conducted. Human Resources will obtain consent directly from the candidate. Any available resume/vita/employment application also should be provided to Human Resources. Human Resources will take the information and initiate a criminal background check with the appropriate vendor for completion of the criminal background check. All costs associated with conducting the background check will be incurred within the Human Resources Department, and program revenue departments will be charged back.

c. A criminal background check on prospective hires, employees and volunteers must include a check of the Wisconsin Department of Justice, Crime Information Bureau electronic database, and a check provided by a criminal background check vendor that includes the following components:

- Social Security Number Trace – Authenticates the individual’s information and generates a list of addresses the individual has lived at for the last seven years; as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the individual.
- Criminal Felony/Misdemeanor by County of Residence – superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.
- Sex Offender Registry – sex offender search by state.
- National Criminal Background Database – search of the vendor’s proprietary national criminal background check database.

University officials will have certain additional duties under the federal Fair Credit Reporting Act when retaining a vendor to perform criminal background checks. Please see Addendum 1 regarding important procedures to follow in the case of an address discrepancy.

Additional criminal and non-criminal checks (e.g., motor vehicle, etc.) may be run when appropriate in relation to the position.

UW institutions must conduct an appropriate U.S. criminal background check on an applicant for employment, current employee, or volunteer who is a foreign national and subject to this policy. A criminal background check in the individual’s prior county(ies) of residence will also be conducted if his/her country(ies) of residence provides a criminal background check for the time period during
which the individual was a resident. A media search is not considered an appropriate criminal background check and, therefore, institutions are not required to conduct media searches.

The standard package for criminal background checks conducted through a vendor shall include:

- **Social Security Number Trace** – authenticates the individual’s information and generates a list of addresses the individual has lived at for the last seven years; as part of the trace, the University may verify that the social security number is valid and appropriately assigned to the individual.
- **Criminal Felony/Misdemeanor by County of Residence** – superior and municipal court records search in any county in the U.S. in which the individual has resided in the last seven years.
- **Sex Offender Registry** – sex offender search by state.
- **National Criminal Background Database** – search of the vendor’s proprietary national criminal background check database.

Additional criminal and non-criminal checks (e.g. motor vehicle, etc.) may be run when appropriate in relation to the position.

The University is required to comply with the federal Fair Credit Reporting Act (“FCRA”) if it uses a private vendor. Please see Addendum 1 regarding important procedures to follow in the case of an address discrepancy.

3. **Making the Decision Regarding Substantial Relationship.** Once the criminal background check is completed, the University will need to make a decision based on the information gathered. Wisconsin’s Fair Employment Act states that employers cannot discriminate against prospective or current employees based on past or pending arrests or convictions. There are exceptions to this requirement if a “pending criminal charge” or “conviction record” is determined to be “substantially” related to the “circumstances of the particular job.” To determine if there is a relationship, the University needs to review the circumstances of an offense, where it happened, when, etc. compared to the circumstances of a job - where is the job typically done, when, etc. The more similar the circumstance, the more likely a “substantial” relationship exists.

Accordingly, if the check uncovers a pending criminal charge or a criminal conviction, the University's provost (or designee) or the University's assistant chancellor for business and finance (or designee), as appropriate, will consult with Human Resources and the University's legal counsel to determine whether the criminal activity is substantially related to the functions of the position. The University's provost or designee shall be the decision-maker for all faculty positions, as well as all academic staff positions or other positions that are within divisions, departments or other administrative structures that ultimately report to the provost. The University's assistant chancellor for business and finance or designee shall be the decision-maker for all university staff, as well as academic staff positions or other positions that are within divisions, departments or other administrative structures that ultimately report to the assistant chancellor. The Chancellor or designee shall be the decision maker for all positions not listed above. On behalf of the provost or the assistant chancellor for business and finance, Human Resources may consult with other offices and individuals, inside and outside of the University (including the University police department), as appropriate to determine whether a substantial relationship exists while maintaining strict confidentiality.

In reviewing the results of a criminal history background check on an individual applicant, the University will review each applicant on a case-by-case basis and consider the following factors in
order to determine whether there is a substantial relationship between the pending charge or conviction and the position and whether the applicant should be further considered for the position:

**The Offense.** The nature, severity and intentionality of the offense(s) including but not limited to:

a. The statutory elements of the offense (rather than the individual’s account of the facts of the offense);

b. The individual’s age at the time of the offense(s);

c. Number and type of offenses (felony, misdemeanor, traffic, other);

d. Time elapsed since the last offense;

e. The individual’s probation or parole status;

f. Whether the circumstances arose out of an employment situation; and

g. Whether there is a pattern of offenses.

**The Position.** The duties, responsibilities and circumstances of the position applied for, including but not limited to:

a. The nature and scope of the position, including key access to residential facilities, key access to other facilities, access to cash and access to vulnerable populations, including minor children;

b. The nature and scope of the position’s student, public or other interpersonal contact;

c. The nature and scope of the position’s autonomy and discretionary authority;

d. The amount and type of supervision received in the position or provided to subordinate staff;

e. The sensitive nature of the data or records maintained or to which the position has access;

f. The opportunity presented for the commission of additional offenses; and

g. The extent to which acceptable job performance requires the trust and confidence of the employer, the University or the public.

Using these and other appropriate factors, the provost or the assistant chancellor for business and finance (or their respective designees) in consultation with Human Resources and legal counsel will make the final determination on whether to appoint or reject the candidate on the basis of a criminal background check. Human Resources will be responsible for documenting the basis for the decision to appoint or to refuse to appoint a candidate based on the criminal background check review.

4. **Candidate Notification of Negative Results.** If a candidate is not selected based on the criminal background check results, the results will be provided and the candidate will be given a three working day time period to refute the information. Additional time extensions may be provided to the candidate at the sole discretion of the University. If a private, commercial background check vendor is used, the University and the vendor will need to ensure compliance with the federal FCRA.
5. **Keeping Records.** Records gathered as a result of a criminal background check will be kept by Human Resources in separate, sealed files segmented by the applicant/employee’s name. The files will be maintained separately from an applicant/employee's general personnel records. These records should include:

- Information collected from the check
- Analysis and decision whether criminal activity (if any) was substantially related to position
- Correspondence related to criminal background check

The records will be securely maintained for a period of seven years after the position has been filled, and may be accessed only on a need-to-know basis or as required by applicable law.

6. **Other Background Checks/Evaluations.** As noted previously, other types of background checks and/or evaluations may be utilized due to the nature of particular positions. Examples include checks required under: Wisconsin’s Caregiver Law (Wisconsin Statutes, Chapters 48 and 50) and Fiduciary Responsibility Law (Wisconsin Statutes, Section 230.17(3)). Additionally, the nature of certain positions could involve the need to conduct non-criminal background checks such as drug analyses, psychological evaluations, and credit checks. Nothing in this policy precludes the University from conducting position specific checks (criminal and non-criminal) on an as-needed basis.

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**University Responsibilities**
Assistant Chancellor for Business and Finance

**Department/Unit Responsibilities**
Human Resources

*Any questions related to this policy, including interpretations and resource locations, should be directed to the University’s Human Resources Office.*

**Contact**
Please direct questions about this policy to administrative-policy@uwrf.edu.
Addendum 1 - PROCEDURES FOR RESPONDING TO NOTICES OF ADDRESS DISCREPANCIES RECEIVED FROM CONSUMER REPORTING AGENCIES

The Federal Trade Commission (FTC) issued a new regulation (16 CFR 681.1) which requires users of consumer reports to have a procedure in place to deal with any Notices of Address Discrepancies it may receive from a consumer reporting agency. Specifically, upon receipt of a Notice of Address Discrepancy, UW-River Falls must be able to form a reasonable belief that the consumer report relates to the consumer about whom it has requested the report. Essentially, the goal of the regulation is to ensure that UW-River Falls and the credit reporting agency are both referring to the same person, even if they each have different addresses for such person on file.

UW-River Falls uses third-party consumer reporting agencies to conduct checks in connection with its Criminal Background Check Policy. These checks are typically run by the UW-River Falls Human Resources Department or a third-party consumer reporting agency.

In the event that UW-River Falls receives a Notice of Address Discrepancy from a consumer reporting agency related to a Criminal Background Check Policy check, the following procedure shall apply:

1. UW-River Falls Human Resources will compare the information in the consumer report provided by the consumer reporting agency with its own records or records from third-party sources in order to verify that the consumer report relates to the consumer about whom it has requested the report.

2. In the event that Human Resources is unable to verify that the consumer report relates to the consumer about whom it has requested the report based on such documentation, it shall verify the information provided by the consumer reporting agency directly with the individual who is the subject of the consumer report.

In addition to the above, the new regulation requires that UW-River Falls report the information underlying the discrepancy to the consumer reporting agency that provided the Notice of Address Discrepancy if (i) UW-River Falls forms a reasonable belief that the consumer report relates to the consumer about whom it requested the report and (ii) UW-River Falls regularly furnishes information to the consumer reporting agency. UW-River Falls currently supplies information to a criminal background check vendor. This reporting should be completed as part of the information UW-River Falls regularly furnishes to a criminal background check vendor for the reporting period in which UW-River Falls confirms that the consumer report relates to the customer about whom it requested the report.

Addendum 2 – STANDARD VERBIAGE FOR CONTRACTS

[ORGANIZATION NAME] employees, affiliates, or volunteers that will have routine or unsupervised access to vulnerable populations (i.e., minors or medical patients) in the course of the contract represent that these employees, affiliates, or volunteers have satisfied a criminal background check conducted by a criminal background check vendor that includes a check of the vendor's proprietary national criminal background check database.
CONFIDENTIALITY AGREEMENT
(FOR EMPLOYEES WITH ACCESS TO INFORMATION ON
BACKGROUND CHECKS)

Name __________________________________________________________

Classification/Job Title ____________________________________________

UW Institution ___________________________________________________

Department _______________________________________________________

I understand that in the course of conducting a criminal background check, I may have access to information including, but not limited to, the results obtained from the criminal background check.

I understand that the information listed above, as well as other information to which I have access, is special or confidential information that could either improve or injure the prospects or chances of persons in the recruitment process. I agree to keep this information confidential and not to copy the materials, discuss them with anyone not specifically authorized by the Human Resources Specialist, Manager, or Representative, or allow any unauthorized person access to them. Failure to keep the information confidential may constitute insubordination and/or may result in a violation of a work rule both of which could lead to discipline up to and including termination.

By signing below, I acknowledge that failure to adhere to the requirements set forth in this statement would be a violation both to the public trust and as a condition of my continued employment with the State of Wisconsin.

__________________________________________________  ______________
Signature                                             Date