

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED AMENDED REGULATION**

REGULATION NUMBER AND TITLE: FPU-6.011 Criminal Background Checks.

SUMMARY OF THE REGULATION: This proposed amended regulation establishes the criteria and guidelines for conducting criminal background checks in accordance with applicable federal and state law provides University procedures and specific criteria for requiring and conducting criminal background checks on applicants to whom an offer of employment has been made, current employees and approved volunteers. This regulation is being revised primarily to provide for rescreening certain positions, as necessary, to clarify that the existence of a criminal conviction alone does not automatically disqualify an individual from employment, and to clarify appropriate use and location of criminal background check records. The title of this regulation is additionally being revised to avoid confusion and more appropriately reflect the scope of the regulation itself, which applies to both University employees and volunteers.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapoly.edu/board-of-trustees/university-policies-and-regulations/>.

If you would like a copy of the Proposed Regulation, please contact Melaine Schmiz, Assistant General Counsel at (863) 874-8489.

AUTHORITY: Board of Governors Regulations 1.001(5).

NAME OF PERSON INITIATING PROPOSED REGULATION: Gina DeJulio, VP and General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Melaine Schmiz, Assistant General Counsel at 4700 Research Way, Lakeland, Florida 33805, Email: mschmiz@floridapoly.edu, Phone: (863) 874-8489, Fax: (863) 874-8716.

DATE OF PUBLICATION: November 6, 2017

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

FPU-6.011 ~~Employee~~ Criminal Background Checks.

(1) Purpose. This regulation establishes the criteria and guidelines for conducting criminal background checks in order to ensure the University's compliance with applicable federal and state laws. The University shall designate, as appropriate, all positions of employment and volunteer positions for which a criminal background check is required, determined based on the nature of trust, responsibilities and location of the position. This regulation provides necessary procedures and specific criteria for requiring and conducting criminal background checks on applicants to whom an offer of employment has been made, current employees and approved volunteers, as applicable. Where required by law or administrative requirement, periodic Level 2 background check rescreens may be performed. In the event of such, the employee shall be given written notice that the background check will be conducted.

(2) University Policies and Procedures. University policies and procedures shall be followed while conducting criminal background checks. An individualized assessment of any criminal history discovered pursuant to a criminal background check, including further investigation into the matter when such is warranted, shall take place prior to the University taking any negative employment action. Criminal background investigations will be conducted based on the position-related requirements and consistent with business necessity. The University will notify the individual, in writing, in the event a screening has revealed any disqualifying information. The University's Human Resources Department will conduct all criminal background checks and investigations related to a volunteer or position of employment.

(3) Positions of Special Trust or Responsibility or in Sensitive Location. A criminal background check shall be conducted on all job candidates, after an offer of employment is made, and on all accepted volunteers, prior to employment or placement of a volunteer in a position of special trust or responsibility or a position in a safety sensitive location. All positions subject to criminal background checks must state such requirement in any job or volunteer postings advertising the position, offers of employment and official job descriptions.

(4) Responsibility to Cooperate. University employees and volunteers, who are employed in or assigned to a position for which a criminal background check is required, shall cooperate fully with the University while the background check is conducted, which includes the obligation to produce any requested information in a timely manner. Any employee or volunteer who refuses to cooperate in the screening or refuses to submit necessary information in a timely manner, including fingerprints if required, will be subject to disqualification from volunteering or employment, or if currently employed in the position, will be subject to termination.

(5) Employment Decisions Based on Criminal History. The University will not take any negative employment action based solely on an individual's arrest record, ~~but will make further inquiry to determine whether the conduct underlying the arrest justifies doing so.~~ The existence of a conviction does not automatically disqualify an individual from employment. The University may take negative employment action based solely on an individual's conviction record only if the specific offense demonstrates unfitness for performing in the position and relates to the job. Positions subject to a criminal background check require a specification of disqualifying criminal conduct based on the special trust or relative job responsibilities of the employee or volunteer in that position.

(6) Responsibility of Current Employees. Falsification of any record(s) provided by an employee during the employment application process may be grounds for immediate termination of the employee and shall negate any future opportunity for employment with the University. A University employee shall immediately notify the University if the employee is convicted of a felony or first degree misdemeanor any time subsequent to becoming employed by the University.

(7) Criminal Background Check Records. Criminal background check records obtained pursuant this regulation ~~shall will~~ be kept confidential, to the extent permitted by law, and shall be used solely for purposes that are required or permitted under this regulation or any applicable federal or state law. All completed criminal background checks shall be maintained in Human Resources and shall be kept separately from employee personnel files.

Authority: BOG regulation 1.001(5)

History: New: 5.15.14; Amended: