



Background Check Policy

Policy Number: PP 1-3

Effective Date: November 1, 2015

Approved By: Roger L. Stancil, Town Manager

POLICY

It is the policy of the Town of Chapel Hill to provide applicants who may have prior convictions with a fair chance at employment. Consistent with this policy, a criminal history will not automatically disqualify an applicant from employment, unless mandated by law. The Town will not inquire into an applicant's criminal history on an initial employment application form, unless required by law. The Town will not conduct a background check or make an inquiry into an applicant's history until after it has been determined that the applicant is qualified for a position, and the applicant has been recommended for hire by the department where the vacancy exists.

The Town conducts background investigations by checking various sources of information to verify eligibility for continued or prospective employment of full-time, part-time employees, volunteers, interns and temporary personnel.

Background checks may inquire into an employee or applicant's criminal, credit, driving history, or education, credentials or licensure depending on the requirements of the job. Employees promoted or transferred may have be required to have a background check as a condition of employment based on the requirements of the job.

In no case may records of criminal arrests, dismissals, or convictions which have been expunged be used by the Town in connection with employment, except as dictated by law. The Human Resources Development Department shall maintain records of all such requests and inquiries related to them.

PURPOSE

Consistent with our values of **Safety** and **Equity**, the Town of Chapel Hill is committed to providing a safe environment for employees and the community. This policy establishes procedures for conducting background checks.

APPROVAL

Roger L. Stancil, Town Manager



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Policy Number: PP 1-3

Effective Date: November 1, 2015

Approved By: Cliff Turner, Human Resources Development Director

These procedures are issued by the Director of Human Resource Development to implement the Background Check Policy, PP 1-3, issued by the Chapel Hill Town Manager. These procedures may be periodically updated.

A. Background Implementation and Investigation Procedure: The Human Resource Development Department (HRD) will implement this procedure by:

1. Ensuring that hiring supervisors and applicants are aware that a background check will be completed.
2. Ensuring that applicants complete the appropriate authorization for release forms before a report is procured.
3. Performing a background check on all applicants in accordance with the Fair Credit Reporting Act after a conditional job offer is made.
4. Ensuring that an adverse action letter is sent to a prospective employee or volunteer when applicable, with a deadline by which that person can submit proof that the report is erroneous, or provide evidence of their rehabilitation or other pertinent information as desired.
5. Ensuring that no applicant or volunteer begins work in a position without an executed and approved background check in addition to all other pre-employment requirements.
6. Ensuring that background checks results are communicated to the hiring departments in a timely manner.
7. Ensuring that background check information is confidential and maintained within HRD.

B. Types of Background Checks Conducted:

1. Educational and License/Credential Checks will be initiated by HRD using a third party vendor. These checks will be conducted for all positions that have specific education, licensure or professional credential requirements and shall include a check of all educational institutions listed on the candidate's application.
2. Credit History Checks will be conducted or initiated by HRD using a third party vendor. Positions where credit checks are required include but are not limited to those in which the incumbent can sign checks, wire-transfer money, negotiate or authorize arrangements or accounts with banks, sign contracts, on a regular basis handles cash (including currency, checks and other negotiable instruments), authorizes disbursements, billing or payroll transactions or manages inventories.

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3. Driving record checks will be conducted for positions that are covered under DOT and/or FTA or are responsible for driving a Town vehicle as a part of the incumbent's regular job duties. These checks may be initiated by HRD or by the hiring department using a third party vendor. Decisions of employment based on driving records checks will be determined by legal requirements, or department policy.
4. Criminal background checks will be initiated by HRD using a third party vendor. A criminal background check under this policy shall include criminal history record searches for felony and misdemeanor convictions or pending charges in every jurisdiction where the candidate currently resides or has resided for (7) seven years preceding the candidate's application for employment. In addition, the criminal background check may consist of sex offender registry searches in the jurisdiction where the candidate currently resides or has resided. The Town may in its discretion order additional checks or verifications beyond the above-referenced.

C. Findings in Background Checks:

1. Factors Considered: When making employment decisions based on criminal history, the Town will consider the following factors to determine if such decision is job related and consistent with business necessity. Such consideration will involve completing an individualized assessment and will take into account the following:
 - a) The facts or circumstances surrounding the offense or conduct;
 - b) The number of offenses for which the individual was convicted;
 - c) Age at the time of conviction, or release from prison;
 - d) Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
 - e) The length and consistency of employment history before and after the offense or conduct;
 - f) Rehabilitation efforts, e.g., education/training;
 - g) Employment or character references and any other information regarding fitness for the particular position; and
 - h) Whether the individual is bonded under a federal, state, or local bonding program.
2. Other Factors the Town may consider include:
 - a) An arrest with no conviction where a crime is unresolved or charges are pending
 - b) Requirements of Federal, state, or local law to consider an applicant's criminal history
3. Adverse Findings:
 - a) If there are findings because of a background check that could potentially lead to an adverse action, and a decision is made to change the job offer status, HRD will notify the department and the applicant in accordance with this policy.
 - b) Any applicant aggrieved by a potential adverse action may submit a request for reconsideration to HRD based on their allegation that the record in question is incorrect or inappropriately attributed to them or that the criminal record correctly attributed to them should not be a bar to employment. HRD shall consider the request and take appropriate action.

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CONT.

c) If the applicant submits a request for reconsideration, a copy of the applicant letter, the evidence of rehabilitation, or proof of error in the report must be submitted with the request.

4. Due Diligence Regarding an Adverse Finding: The Town will follow the practices set forth below when it decides to deny an applicant for a position because of information resulting from a background check:

- a) Confirm that the record received pertains to the individual for whom a request was made by comparing the applicant's identifying information such as that on a driver's license or government issued identification, authorization form or the information to the consumer report.
- b) Notify the applicant and provide him or her with a copy of the report that appears to make him or her ineligible for employment prior to making any adverse determination or taking any adverse action.

c) Afford the applicant an opportunity to contest the accuracy and/or explain the relevance of any convictions(s), or explain how a decision to bar them from employment is not job related and consistent with business necessity or, to submit any evidence of rehabilitation before a final decision is made about the applicant's suitability for the position sought. The applicant shall have (7) seven calendar days from the mailing of the notice to submit a written rebuttal to the Town

5. Rights of the Town:

- a) Nothing in this policy shall obligate the Town to suspend recruitment efforts indefinitely or prevent the Town from filling the position for which an affected applicant has applied.
- b) Nothing in this policy shall prevent the Town from complying with all applicable state and federal laws.

D. Exceptions to this Policy

- 1. In order to comply with State requirements for Law Enforcement Officers, the Chapel Hill Police Department may conduct background investigations within the department before submitting a selection to HRD.
- 2. When federal, state, or local law requires the consideration of an applicant's criminal history.

PROCEDURES
APPROVED BY

Cliff Turner, Human Resources Development Director



FORMS/
INSTRUCTIONS

[FORM 1-3 A Town of Chapel Hill Consumer Report](#)

ADDITIONAL CONTACTS

Human Resource Development 919-968-2700 or HR@townofchapelhill.org

Ombuds office 919-265-0806 or Ombuds@townofchapelhill.org

First Point – Consumer Disputes, Greensboro, NC

DEFINITIONS

- A. **Applicant:** Anyone who expresses interest in a position or otherwise becomes a candidate to become an employee of the Town.
- B. **Adverse Action:** Denial of employment to an applicant based on criminal history
- C. **Background Investigation:** A check of various information sources that verifies the eligibility of a prospective employee. The type of information that may be reviewed includes, but is not limited to, a criminal history record, a credit record or education and/or credential records.
- D. **Credit History Check:** A search of credit history
- E. **Criminal Background Check:** A search of criminal conviction history.
- F. **Consumer Report:** Any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for employment.
- G. **Conviction:** Any sentence arising from a plea or verdict of guilty, including a sentence of incarceration, a suspended sentence, or a probation sentence.
- H. **Education/Credential Verification:** A search of degrees, licenses or credentials required to perform the duties of the position as outlined in the minimum qualifications.
- I. **Legitimate Business Reason:** Exists where, based on information known to the employer at the time of the employment decision is made the employer believes in good faith that the nature of the criminal conduct underlying the conviction or the pending criminal charge:
 - a) Will have a negative impact on the applicant's fitness or ability to perform the position or;
 - b) Will harm or cause injury to people, property, business reputation or business assets.

RESPONSIBILITIES

- A. **All Employees are expected to:**
 - a) Provide accurate identity information
- B. **All Human Resource Development staff members are expected to:**
 - a) Follow procedures as outlined above with respect to conducting background checks.
 - b) Maintain records as required by this policy and applicable laws.

SCOPE

As of November 1, 2015, this policy replaces and supersedes any previous Town policies, procedures, supplemental policies, handbooks, or unwritten policies or practices covering the same subject. Supplemental policies in compliance with this policy are referenced in Section XI below, **Related Information.**

RELATED INFORMATION

- A. Town of Chapel Hill Code of Ordinances, Section 14-103
- B. The Family Educational Rights and Privacy Act
- C. Fair Credit Reporting Act
- D. Title VII Civil Rights Acts of 1964
- E. EEOC Guidance on Criminal Background Checks, April 2012

POLICY HISTORY

The Background Check Policy and Procedures were created in October 2015. Its content is based on current and past practices of the Town.