

## RESPONDING TO PROPOSED POLICY ON CRIMINAL HISTORY BACKGROUND CHECKS

Adopted by Faculty Senate November 2, 2012

The Faculty considering:

- the relevant Florida Statute (110.1127) does **not** require that all employees undergo a back ground check (subsection (1)), and charges the institution with differentiating between positions that would require a Level 1 back ground screening (Statute 435.03) that does not require finger printing, from positions that warrant a “security background investigation”(Level 2, 435.04) that would include fingerprinting; (i.e. the Statute does **not** require that all employees have background checks, **nor requires** fingerprinting of all employees);
- the relevant Statute (110.1127 (4)) precludes charging the employee for the background check, and the fiscal impact of the current policy does not appear to have been accounted for in this year’s budget and appears to be at least \$50,000 and could total more than \$120,000;
- we have received no cost/benefit analysis of what fingerprinting gives us beyond a background check without fingerprinting (Level 1 by Florida Statute), and what would be the difference in cost to the University;
- we have received no review of how this draft policy relates to similar policies across the SUS;
- the application of the policy to part-time employees, student workers, volunteers, and outsourced activities (Follet, Aramark, housekeeping and landscaping) is not completely clear in the current draft policy;
- the current proposed policy does not incorporate the reality that some faculty currently are required to undergo fingerprinting for outside agencies or personal activities, and it would be unnecessarily redundant to require an additional in-house fingerprinting;
- the current draft policy leaves the disposition of faculty members who have been found to have misrepresented their criminal background during their hiring subjective, and is lacking in its engagement of outcome of discovery of criminal activity following hiring, both potentially increasing the likelihood of litigation if the employment of any faculty is terminated under the subjective nature of the current draft policy; and
- the provision for termination for non-compliance with the policy (4a) seems to affect Terms and Conditions for Employment, after hiring of current employees,

Resolves:

- the Criminal History Background Checks Policy is not acceptable in its current form;
- the Board of Trustees should reconsider Regulation FGCU-PR5.006 Employee Criminal Background Checks, toward returning to the original draft language indicating fingerprinting “may” rather than “will” be required (Section 1) to avoid the unnecessary waste of resources;
- we need to fully review the comparable policies across the SUS systems;
- we need to more carefully differentiate the level of scrutiny required for positions across the institution, fulltime, part-time, student worker, or volunteer, or with associated contractors to more effectively utilize resources;
- we need to engage in an analysis of the cost, and outcome, of applying Level 1 Background checks (Florida Statute 435.03), as opposed to including fingerprinting;
- we need to incorporate the recognition of previous background checks, where appropriate, to avoid unnecessary, costly redundancy;
- we need to clarify, and codify, the procedure regarding engagement of discovery of criminal history that was not disclosed: and
- administration needs to engage UFF in decision-making regarding the final form of the policy.