I. INTRODUCTION (Purpose and Intent)

The University of South Florida System (USF System) is committed to protecting the safety, security and health of its students, employees and others, as well as safeguarding the interests of the USF System. As part of its efforts to create a safe work and study environment, the USF System requires that a criminal history background check be conducted on prospective employees as a condition of employment. Criminal history background checks may be required for students or volunteers depending upon assignment. A criminal history background check will be conducted upon current employees when required by law or if there is a reasonable belief that the employee has been convicted of a crime without reporting it to the Division of Human Resources (“Human Resources”).

II. DEFINITIONS

A. For purposes of this Policy only, the term “employee” includes, but is not limited to, USF System employees in the classifications of: (1) Faculty; (2) Administration; (3) Staff; and (4) Temporary (with assignments exceeding 60 days).

B. “Volunteer” is an individual who, of his or her own free will, provides goods or services to the USF System with no monetary or material compensation for his or her efforts.

C. “Student” is an individual who may be employed through programs such as Federal Work Study but whose primary purpose is pursuit of education. Graduate Assistants, Teaching Assistants and Resident Assistants would be considered students. A student applying for a position that is open to non-students or is considered a Sensitive or Special Trust position would be required to complete a criminal history background check.

D. “Level 1 background check” is a background check that includes an employment history check, a nationwide criminal history background check through validated national database sources, and a check of the National Sex Offenders Public Website. It may also include a local criminal record check through local law enforcement agencies.
E. “**Level 2 background check**” is a background check that includes, in addition to the requirements of a Level 1 background check, a state or national fingerprint-based check.

III. **STATEMENT OF POLICY**

A. **Prospective Employees**

A **Level 1** background check shall be conducted on prospective employees as a condition of employment. The term “prospective employee” includes a current employee who formally applies for a position designated as a Sensitive or Special Trust position in accordance with Human Resources procedure. Criminal history information will be used only for the purpose of verification of the prospective employee’s criminal history background.

A **Level 1** background check will be conducted for prospective employees upon conditional offer of employment. Where required by law or internal procedure, a **Level 2** background check will be completed. **Level 1** checks are performed by a third-party vendor and utilize the applicant’s name, current and past addresses and social security number for verification. **Level 2** checks are performed through Human Resources and utilize the applicant’s fingerprints. Fingerprints are processed through the FDLE.

All job descriptions, position advertisements and applications shall provide notice to prospective employees that a criminal history background check will be conducted as a condition of employment. Such notice shall also be provided in any offer of employment that is extended prior to a criminal history background check being conducted.

B. **Current Employees**

Current employees are required to report any conviction which occurs during their employment with USF to Human Resources. Human Resources may authorize a criminal history background check on current employees if required by law or if there is a reasonable belief that the employee has been convicted of a crime without reporting it to Human Resources. Where required by law, administrative rule, internal procedure, or administrative requirement or mandate, periodic level 2 background check rescreens may be performed. In these cases, the employee will be given written notice that the background check will be conducted. Please see Section III (A) for a discussion of the requirements when a current employee applies for or is transferred to another position at USF.

C. **Information Collection, Evaluation and Retention**

1. Human Resources shall be responsible for processing criminal history background checks. Responsibility may be delegated to Regional Campus Human Resource departments **or to a properly retained external search firm or search consultant**.
2. If a prospective employee or volunteer refuses to undergo all or a portion of the background check process, the individual will be ineligible for consideration for such position.

3. If a criminal history background check reveals any conviction of a felony or first degree misdemeanor which the individual disclosed on the USF System application or to Human Resources, the local hiring authority, in conjunction with Human Resources and/or the Provost’s Office, will consider the following factors before making any employment decision:

   a. The nature and gravity of the offense(s) and the circumstances surrounding the offense(s);

   b. The time that has passed since the conviction and/or the completion of the sentence;

   c. The rehabilitation record and actions and activities of the individual since the conviction including subsequent work history; and

   d. The nature of the job sought.

The existence of a conviction does not automatically disqualify an individual from employment. Adverse information triggers a process not a result. Each case will be judged on its own merit with respect to the above factors; however, the individual must have made a truthful and comprehensive disclosure of the conviction for employment consideration. Guilty verdicts, guilty pleas and pleas of nolo contendere (no contest) must be included in the disclosure. Individuals will have an opportunity to present relevant information after USF’s receipt of the background information for consideration in making any employment decision.

4. If a criminal history background check reveals any convictions of a felony or a first degree misdemeanor which the individual failed to disclose on the USF System application, any offer of employment will be withdrawn, and if employed, the individual will be separated from employment, unless the individual shows that the report is in error.

5. All completed criminal history background checks shall be maintained in Human Resources and shall be kept separately from employee personnel files. Background checks are subject to the Florida Public Records laws.

6. USF will ensure that all background checks are held in compliance with federal and state statutes, such as the Fair Credit Reporting Act, when applicable.
7. Criminal history background checks will be used only to evaluate individuals for employment or specified volunteer positions and will not be used to discriminate on the basis of race, color, marital status, sex, religion, national origin, disability, age, genetic information, sexual orientation, gender identity or expression, or veteran status.

D. Exemptions

This policy provides exemptions from criminal history background checks for individuals who meet the following conditions, unless their job duties require them, by law or internal procedure, to undergo a criminal history background check:

- Rehired employees who have returned to the USF System after a period of no more than 120 days.

- Prospective employees who have current professional licensing/credentials for which the candidate was required to undergo a criminal history background check with results that were acceptable to the licensing body. Such employees may include clinical faculty. Licensing/credentials must be validated in order to be considered exempt.

- Students and volunteers will generally not be subject to criminal history background checks. A department may designate limited positions as subject to criminal history background checks. Applicants will be notified of the requirement at the time the position is posted.

- Temporary employees hired for a period of less than 60 days (includes courtesy appointments).

- Emergency appointments of 7 days or less with the approval of the appropriate Vice President or the Associate Vice President of Human Resources.

Current Responsible Office*: Administrative Services

*Refer to the appropriate Responsible Office website for a current name of the Vice President or other Responsible Officer.

History: New 1-2-13, Amended 6-30-16 (technical), 5-2-18 (technical).