




BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA

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Atlanta, Georgia 30334

OFFICE OF THE CHANCELLOR

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MEMORANDUM

DATE: December 7, 2006
TO: USG Presidents
FROM: Erroll B. Davis, Jr. 
SUBJECT: Criminal Background Checks

It has come to my attention that institutional practices vary widely with respect to criminal background checks for new employees hired. Some institutions do comprehensive, multi-state criminal background checks; others do only Georgia criminal background checks. Some check all new hires; other check only those in positions of trust.

In an attempt to control our risk exposure, I've asked our Legal Affairs Office to draft a more systematic policy, which is attached. You may want to share this draft with your CBO's and chief human resources officers. Please forward any comments you have regarding the draft to Rob Watts.

The Financial Affairs Office is creating a System-level RFP for criminal background check services. Institutional use of these services from the contractor selected will be voluntary, as you may already have provided for this function on your campus. However, it will give you an option or an additional option to consider.

Please let me know if you have questions about this topic.

EBD/dm

c: Mr. Rob Watts
Dr. Beheruz Sethna
Mr. Tom Daniel
Mr. Bill Bowes
Ms. Elizabeth Neely

Background Check Policy

It shall be a condition of employment for all finalists (including internal hires) hired for full-time positions at any institution of the University System of Georgia or the System Office of the Board of Regents for any administrative, service, professional, classified, faculty or academic position to submit to a background investigation. Offers of employment shall be conditional pending the result of the background investigation. The background investigation shall include the following:

- A state and federal criminal history check covering a minimum of seven (7) years;
- A social security number check; and
- For all professional, faculty and academic positions, an academic credentials check.

Any current employee of an institution of the University System of Georgia or the System Office of the Board of Regents who is charged with a crime (other than a minor traffic offense) shall report being charged with a crime to his or her supervisor within 72 hours of the employee becoming aware of such charge. Failure to report being charged with a crime may result in appropriate disciplinary action, including termination of employment.

Each institution of the University System of Georgia shall have policies and procedures to implement this policy. Nothing in this policy shall prohibit an institution or the System Office from performing reference checks and/or background investigations on part-time, student or temporary employees.

GEORGIA CONFERENCE
AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

Hugh Hudson, Executive Secretary
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Georgia State University
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hhudson@gsu.edu
<http://www.gsu.edu/~hishdh/aaup.htm>

cc: Erroll
Meg
✓ Arnett
Desk
File
MJA
January 9, 2007

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OFFICE OF THE PRESIDENT
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Dr. Michael F. Adams
President, The University of Georgia
The Administration Building
The University of Georgia
Athens, Georgia 30602-1661

Dear Mike,

I am writing to ascertain your opinion on a matter and, in truth, to ask for your assistance. As you are aware, the Chancellor has ordered that policies and procedures be developed on each campus for a "background investigation" (state and federal criminal history check, social security number check, and an academic credentials check). I have been contacted by a number of faculty with deep concerns regarding the potential for abuse in such a policy. I share these concerns.

In 2004 the AAUP Committee on Academic Freedom and Tenure produced a report on this trend. I include a copy of that report. In short, the AAUP called for a renewed sense of proportion in such inquiries. The report urged that the practice be limited to candidacies for positions with significant security considerations: "The privacy of a candidate [for employment] should be compromised only as necessary in order to secure information that may ensure that applicants are qualified to meet the particular obligations of specific positions." A general policy, as proposed by Chancellor Davis, of searching the criminal records, if any, of an applicant—and act that is highly invasive of an applicant's privacy and potentially very damaging—was rightly held to be egregiously disproportionate to reasonable institutional needs. In this the Committee followed the argument, of the Privacy Protection Study Commission, created by the federal Privacy Act of 1974.

The Committee noted that criminal records are notoriously imprecise as to criminal guilt, containing as they do information that ranges from arrest through dismissal or sentencing, and do not contain important contextual information.

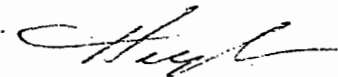
Equally disturbing is the lack of any procedural safeguards in the Chancellor's policy directive. The AAUP recommended that at the least universities follow the model of the federal Fair Credit Reporting Act that governs the procedures that employers must use when they retain businesses to conduct background checks: informing the candidate of the proposed background check and obtaining authorization in writing; providing the candidate with a copy of the final report; and

refraining from any adverse action on the basis of the report unless and until the prospective employee has had an opportunity to contest or clarify its accuracy.

I know that you are dedicated to preserving the highest standards of academe, including its standards of respect toward all members of the community. I trust further that you share with me a desire to protect people's privacy to the extent possible. I would appreciate your thoughts on this matter. If you were to be at the Board meeting next week, I would be most appreciative of an opportunity to listen to your ideas and suggestions. If not, I would be happy to call on you in Athens at your convenience.

Thank you for taking the time to consider my concerns.

My best,

A handwritten signature in cursive script, appearing to read "Hugh".

Hugh



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THE UNIVERSITY SYSTEM OF GEORGIA**

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January 30, 2007

Dr. Hugh D. Hudson, Jr.
Department of History
Georgia State University
Atlanta, GA 30303-3083

Dear Dr. Hudson:

Thank you for your thoughtful correspondence of January 18, 2007, concerning the potential for abuse and the recently announced policy of requiring background investigations for all University System of Georgia hires, including the faculty.

After some discussion with university presidents and my staff, I adopted this policy for a number of reasons. First and foremost, is that in today's litigious society, the System can not be put in the position of saying it did not know about criminal activity in an employee's background; that simply is not acceptable.

You do, however raise, excellent points about who should have access to information, how information should be used, safeguarded, etc. It is my understanding that you will be working with Ms. Betsey Neely from our legal services area to address these concerns and I am optimistic that we will be able to strike an appropriate balance between acquiring the necessary information and making it available to hiring entities and the requisite respect for the privacy of all members of our community.

Again, I appreciate your raising the issue, the thoughtful and collegial tone of your correspondence, and your willingness to work with us to seek resolution of these issues.

Thank you again for bringing this to my attention. I look forward to further discussions on this issue.

With warmest personal regards,

Erroll B. Davis, Jr.

EBD/dm