

College of Education & Human Services
CRIMINAL BACKGROUND CHECK POLICY

Purpose: To describe the policies of the College of Education & Human Services (COEHS) concerning Criminal Background Checks as a requirement for admission to and/or continuation in the college's professional education programs, student teaching, internships and other clinical field placements.

Policy: In keeping with the regulations of the Wisconsin Department of Public Instruction (DPI), where no teacher may be or may remain licensed in the state who has been convicted of certain crimes as identified by state statutes (*WI. Stat. 118.19*) and administrative regulations (*PI 34.35*) of the DPI, similarly no student(s) who has been convicted and/or charged of similar crimes shall be admitted to the COEHS professional education programs or admitted to or remain in student teaching, or other similar field experiences. In addition, DPI administrative regulations state that an applicant may be denied a teaching license or a teaching license may be suspended for "immoral conduct" which is defined by statute as conduct or behavior which is contrary to commonly accepted moral or ethical standards and endangers the health, welfare, safety or education of any pupil [*WI. Stat. PI34.34(1,c), (2)*].

The following procedures are to be followed in the event of either evidence of current criminal charges or documentation of a past criminal conviction or charges of "immoral conduct" as defined by state statute.

A. Issues of Admission to Teacher Education and Student Teaching

1. As part of the admission processes in the College, whether that is Admission I, Admission II (Student Teaching) or admission to any other program in the College leading to initial or additional licensure, all students must have a current Criminal Background Check (CBC) on file. Specifically;
 - a. Undergraduate students must have TWO CBC's on file in order to be admitted to student teaching.
 - i. The first is required with an Admission I application
 - ii. The second is required for admission to Student Teaching
 - b. Graduate and/or post-baccalaureate students in initial, alternative or additional licensure programs must have TWO CBC's on file to be admitted to student teaching.
 - i. The first is required for program admission
 - ii. The second is required for admission to Student Teaching, whether that is being accomplished through traditional student teaching, an internship or some form of on-the-job experience (see sec. C below).
 - c. All Criminal Background Checks will be performed by appropriately designated staff in the College as defined in this policy. No Criminal Background Checks will be accepted by the College if performed and presented by students, parents, faculty or other divisions of UW Oshkosh.
 - d. The Criminal Background Check process will include checks through (1) the Wisconsin Department of Justice's Criminal Background Check process, (2) the Caregiver Program, and (3) the Wisconsin Circuit Court Access website for the counties of student residence (generally home and Winnebago).

2. Procedures for Acquiring & Filing a Criminal Background Check
 - a. At the undergraduate level (PEP), as part of the application process for both admission to the professional education program (currently Admission I) and to student teaching, the students must complete the following process:
 - i. Pick up the “Criminal Background Check” (CBC) form from the PEP Office and take it to the Cashier’s Office to pay the applicable charges and obtain the Cashier’s receipt stamp;
 - ii. Return the CBC form to the PEP Office, where the CBC will be processed and retained by the college.
 - iii. Departments will be advised of any negative results.
 - b. At the post-baccalaureate level, whether that is in a graduate program or in an initial license program that does not include a baccalaureate degree, as part of the admissions process, both as to the program and as to any terminal field experience (e.g. student teaching, internships, job-related or other site-based field experience), the requirement is a check at the point of admission and for any terminal field experience. The students must complete the following process:
 - i. Pick up the “Criminal Background Check” (CBC) form from the PEP Office and take it to the Cashier’s Office to pay the applicable charges and obtain the Cashier’s receipt stamp;
 - ii. Return the CBC form to the PEP Office, where the CBC will be processed and retained by the college.
 - iii. Departments will be advised of any negative results.
3. Procedures for Review of a Criminal Background Check for Admission
 - a. All CBC’s will be initially screened by the Professional Education Program (PEP) Director or designated staff member.
 - b. In the event that the CBC is clear, it will be indicated in the college’s records. All written CBC records will be placed on file per Sec. D, 2 below.
 - c. If the CBC evidences that the student has either a conviction or criminal charge(s) pending against the student of any kind or type, then the reviewing staff member shall determine if the criminal conviction or charge is (1) on the *Automatic Denial or Revocation of License* list (WI. Stat. 118.19 referencing Class A - H felonies; see Appendix A) or (2) instead represents non-mandatory felonies, misdemeanors and/or immoral conduct.
 - i. If the conviction or charge is on the *Automatic Denial* list, the staff member will confirm that determination with either the PEP Director or the Director of Field Experience. Notice will be sent to the student advising them that they are denied admission pursuant to their CBC.
 - Students may appeal only by providing valid legal information evidencing a mistake in identity;
 - In similar fashion to the state statutes, no other appeal is available.
 - In the event that the CBC result represents criminal charges of the kind to warrant automatic denial and the student can show evidence of the charges being dropped or being held innocent, then the student may request reinstatement within the program. A null or suspended determination will not suffice for reinstatement. A plea resulting in a conviction of a lesser charge(s) will cause a determination of admissibility or retention based on the lesser conviction.
 - ii. If the conviction or charge is not on the *Automatic Denial* list, then as appropriate, the Director (office of Field Experience) or PEP Director will

review the CBC and determine whether to admit or refer the student to the next level of review. The Director will not deny admission to the student without reference sec. 4 below. Any admission decision must be documented and placed in the student's file along with the CBC.

4. Procedure for CBC Review when a CBC contains criminal incidents and is referred from either Director (Sec. 3c,ii)
 - a. When a student's Criminal Background Check indicates a conviction and/or charge not on the *Automatic Denial* list, and the appropriate Director (see sec. 3,c,ii above) determines upon review of the file not to admit the student, the following process is to be followed:
 - i. The Director is to consult with the Dean regarding procedural issues that may be involved. The decision may result in admission, denial or an interview with the student to determine extenuating circumstances or student's perspective/disposition. Any decision must be documented in the student's file along with CBC.
 - ii. If the decision is to interview the student, the Director will meet with the appropriate department chair to arrange an interview between the student, the chair and the Director. The department chair in his/her absence may delegate responsibility to the department assistant chair. The interview must be followed by a decision to either admit or deny admission to the student on the basis of the CBC; in addition any information or disposition developed in the interview with the student may also be used to admit or deny admission. A decision either to admit or deny must be documented and placed in the student file.
 - iii. During any interview, all normal rules and regulations as to the safeguard of student privacy must adhered to.
 - b. Timeliness of Decisions & Notices to Student
 - i. Any CBC Review must take place within ten business days of receipt of the CBC by the college, excepting as to the timing of any necessary interview;
 - ii. If an interview is determined to be necessary, then it must be completed within an additional three weeks unless the student is unavailable or does not respond to a notice regarding the CBC and interview.
 - iii. Notices to the student should be as follows:
 1. No notice is required if at any point it is decided to admit the student, unless a prior notice was sent as to denial due to the CBC;
 2. Where it is desired to hold an interview with the student, notice should be sent to the student no later than the tenth business day after receipt of the CBC by the college;
 3. Where no interview is to be held and the student is to be denied admission based on the CBC, notice must be mailed on the tenth business day after receipt by the college of the CBC. Such notice will explain the basis for the denial and describe the appeal process.
5. Basis for Denial or Approval of Admission due to a CBC
 - a. Since the issue is not a conviction and/or charge(s) on the *Automatic Denial* list, review of the CBC and student file should be guided by the following:
 - i. Whether the CBC results would prohibit teacher licensure in Wisconsin;
 - ii. Whether the CBC results represent sufficient evidence of unprofessional and/or immoral conduct (as defined by WI. Stat.) so as to deny licensure or admission to the program;

- iii. Whether the CBC results evidence sufficient question as to the student's judgment as to appropriate behavior with and/or around children;
 - iv. Whether the CBC results are as to crimes involving children or child endangerment.
- b. The review should also consider whether the CBC results indicate a significant and serious potential for either unprofessional or immoral conduct on the part of the student.
- i. This determination, if made, needs to conform to state statute and DPI regulations;
 - ii. Since this is a dispositional issue, doubt should be resolved in favor of the student and negative decisions thoroughly documented.
- c. In each case, the reviewers will need to document decisions and rationales.

6. Appeal Process

- a. A student may appeal the CBC Review Team's Review Determination by filing a written appeal with the COEHS Dean's office.
- i. The appeal must be filed within seven (7) business days after mailing of the letter of denial (initial determination).
 - ii. The appeal must state the student's response to the CBC results, meaning his or her agreement with mitigation or explanation OR denial of the legitimacy of the results. Failure to include such information or discussion will result in the automatic failure of the appeal.
 - iii. The appeal must include multiple means by which the Dean's office or delegated staff may reach the student to set up an appeal interview. Failure to do so will negate the appeal.
- b. Upon receipt of such an appeal, the designated member of the Dean's staff shall contact the student and arrange for an appeal interview with either the Dean or the Associate Dean.
- c. Such interview must occur in a reasonably timely manner not to exceed ten business days from receipt of the appeal. In the event that the student is unable to meet within that time limit, the appeal may be determined to be void and the CBC denial decision final, at the discretion of the Dean or Associate Dean.
- d. At the time of the appeal interview with the student, the interviewing Dean or Associate Dean has discretion to over-turn the review determination or decide that it becomes final. The decision should take into account the student's general character, if known or presented, the circumstances of the CBC results, whether they are convictions or charges, the legal situation (if known), and whether or not the student will be able to be licensed as a teacher and/or be accepted by a student teaching school site.
- e. The appeal interviewer will advise the student at the end of the interview of the appeal decision. The decision of the Dean or Associate Dean shall be a final decision as to this matter with no further appeal available.

B. Suspension from Student Teaching

1. In the event that during student teaching, a determination is made by the Director of Field Experience that a student shall be suspended from student teaching due to evidence of criminal conviction or charge(s) as governed by this policy, that suspension shall be communicated to the university supervisor, the student, the cooperating teacher and the school site administrator.

- a. Depending on the exigency of the situation, the notice can be verbal and/or in writing.
 - b. If verbal notice is made to effect the suspension, then written notice must be made to all parties within two (2) business days of the verbal notice and suspension. Whether verbal or written, all notices need to include information about student appeals as governed under this policy.
2. The basis for the decision to suspend the student can be made on any reasonably legitimate notice of criminal conviction or charge(s) made to the Director or coming into his or her possession, particularly if the conviction and/or charge(s) are of a nature to invoke the Wisconsin *Automatic Denial* list. Upon or before making the suspension decision, in the absence of a Criminal Background Check, the Director should request an updated CBC.
 3. If the student desires to file an appeal, the process is as described in sec. A,6 of this policy.

C. Suspension from On-the-Job or Internship Student Teaching

1. Recognizing that in the event of a disclosure of criminal conviction(s) or charge(s), including resulting from a Criminal Background Check, a district may choose to deny a position, suspend and/or terminate a teacher in either an On-the-Job (OTJ) or internship position no matter how the College of Education and Human Services elects to respond to such an occurrence, this policy shall still govern whether or not a teacher/student in either category shall remain in the College's teacher preparation program.
2. In the event that a school district advises that an OTJ teacher or an intern is being suspended by the district for a criminal conviction or criminal charge(s), the Director of Field Experience should request confirming documentation from the district. If the district is unwilling to comply, then the Director should cause a Criminal Background Check to be run on the student. In the event that the CBC results suggest that the district action is warranted, as determined by the Director, the student shall be notified by mailing a letter within two business days of receipt of the CBC results advising of their suspension from the college program. If seemingly unwarranted and not confirmed by a CBC, the COEHS will act reasonably to assist the student with alternatives as may be available, if any.
3. If the student desires to appeal the decision by the college, the process is as described in sec. A, 6 of this policy.

D. Miscellaneous

1. Students are responsible for being familiar with the appropriate state statutes and Dept. of Public Instruction administrative regulations. Those may be found as follows:
 - a. Dept of Public Instruction regulations (*PI 34.35*):
<http://dpi.state.wi.us/tepd/pi34.html#licrevocationreinstatedenial3435>
 - b. Wisconsin State Statutes
<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=WI:Default&d=stats&jd=top>

2. All student Criminal Background Checks will be kept in files maintained in the Dean's office (unless required to be archived in some other manner by university administrative policy).
 - a. The students' CBC's will be kept in alphabetized files without reference to year or semester or specific student name.
 - b. All student CBC's are to be filed as soon as the appropriate admission process is complete.
 - c. In the event that a student is denied or suspended from the program for reasons unrelated to the CBC, the CBC is still to be filed per this section.
 - d. No original CBC's are to be returned to the student.
 - e. All CBC's will be kept confidential as to all parties excepting only as identified in this policy or governed by such statutes such as FERPA, etc.
 - f. Documentation of all decisions and judgments must be in writing and filed with the appropriate CBC.

3. Other programs in the college, such as Counselor Education or Human Services, may either operate their criminal background checks through the teacher education (PEP) office or through their own department, however, the policy and procedures must be essentially the same. Any variations must be in writing and approved in writing by the Dean of the College.