

## NINER UNIVERSITY ELEMENTARY CRIMINAL HISTORY RECORD CHECKS

### I. Statement of Policy

Niner University Elementary (NUE) is committed to providing a safe and secure environment for its students, staff, and visitors. To that end and in compliance with N.C.G.S. § 116-239.12, an applicant for a NUE School Personnel position must be checked for a Criminal History as provided in section III of this Policy. Volunteers must also be screened as provided in section V of this Policy.

This Policy shall be applied uniformly. The Human Resources department will carry out the functions required by this Policy on behalf of the chancellor. NUE staff who comply with this Policy are not required to comply with University Policy 101.23, Employment-Related Background Checks and Criminal Activity Reporting.

### II. Definitions

- a. **Conviction** means a guilty verdict, guilty plea, or a “no contest,” nolo contendere, or Alford plea, or any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution.
- b. **Criminal History** means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.
- c. **School Personnel** means any of the following:

- i. Member of the NUE Advisory Board.
- ii. Staff of NUE.
- iii. Independent contractor or employee of an independent contractor of NUE if the independent contractor carries out duties customarily performed by school personnel, whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of NUE.

### III. NUE Personnel Record Checks

#### a. Fingerprinting and Record Check

An applicant for a School Personnel position shall be checked by the Department of Public Safety (i) to be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the chancellor or to the local sheriff, the campus police department of the constituent institution, or the municipal police, whichever is more convenient for the person and (ii) to sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The chancellor shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors.

The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the state Criminal History record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national Criminal History record check. The Department of Public Safety shall provide to the chancellor the Criminal History from the State and National Repositories of Criminal Histories of any School Personnel for which the chancellor requires a Criminal History record check.

The chancellor may grant conditional approval of an application while the chancellor is checking a person's Criminal History and making a decision based on the results of the check. At the chancellor's discretion, a criminal background check may also be run through a different provider while awaiting the results of the Criminal History record check described in this section.

An applicant for a School Personnel position shall not be required to be checked for a Criminal History if the applicant has received a license within six months of employment that required a criminal history check equivalent to the Criminal History check required by this Policy.

An applicant is not required to pay for the Criminal History record check authorized under this Policy.

#### b. Review of Record Check

The chancellor shall review the Criminal History it receives on an individual. The chancellor shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel or (ii) has

demonstrated that the individual does not have the integrity or honesty to fulfill the individual's duties as School Personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The chancellor shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors.

c. Maintenance of Record Check

The chancellor shall provide to the State Board of Education the Criminal History it receives on a person who is certificated, certified, or licensed by the State Board of Education. The State Board of Education shall review the Criminal History and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

All the information received by the chancellor through the checking of the Criminal History or by the State Board of Education in accordance with this section is privileged information and is not a public record but is for the exclusive use of the chancellor or the State Board of Education. The information will be stored separately from employees' personnel files in a locked filing cabinet and/or secure electronic folder.

d. Ongoing Checks

Following the Criminal History checks required for School Personnel prior to employment, the chancellor will perform criminal background checks that comply with University Policy 101.23, Employment-Related Background Checks and Criminal Activity Reporting on all School Personnel every five years.

e. Liability

In general, there shall be no liability for negligence on the part of the chancellor, UNC Charlotte, NUE, the UNC Board of Governors Subcommittee, the Department of Public Instruction, or the State Board of Education, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this Policy and N.C.G.S. § 116-239.12.

Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a Criminal History record check under this Policy shall be guilty of a Class A1 misdemeanor.

#### IV. Reporting Convictions

A NUE staff member is required to report a Conviction to the NUE principal as soon as possible and no later than the beginning of the next business day immediately following the Conviction. In lieu of notifying the NUE principal, NUE staff members may notify the Department of Human Resources through its Director of Employee Relations.

The NUE principal who receives notice of a Conviction shall notify the Director of Employee Relations (Human Resources) within one (1) business day following receipt of such notification.

V. Volunteers

a. UNC Charlotte Faculty and Staff

UNC Charlotte faculty and staff who volunteer at NUE will be deemed to have Sensitive Duties pursuant to University Policy 101.23, Employment-Related Background Checks and Criminal Activity Reporting. No UNC Charlotte faculty or staff member may volunteer at NUE unless they have undergone a criminal background check in accordance with University Policy 101.23.

b. Parents of NUE Students

All parents have access to their child(ren) within NUE, unless legal documentation provided to NUE states otherwise. Visits should be scheduled in advance when possible. Parents will be required to sign in with LobbyGuard, which will run names and dates of birth to check for sexual offenses.

c. Other Volunteers

No volunteers will have unsupervised access to NUE students. The NUE principal will determine the appropriate requirements for volunteers and apply the requirements uniformly.

**Revision History:**

Initially Approved November 2, 2020

**Authority:** Chancellor

**Responsible Office:** Academic Affairs