

Policy Name: Criminal Background Checks for Applicants for RBHS Housestaff Positions

Approval Authority: RBHS Chancellor

Originally Issued: 07/18/05

Revisions: 12/11/12, 4/30/2013

1. **Who Should Read This Policy**

All Rutgers University faculty, staff, and students in Robert Wood Johnson Medical School, School of Health Related Professions, Rutgers School of Dental Medicine, New Jersey Medical School, Graduate School of Biomedical Sciences, School of Public Health, and School of Nursing (former UMDNJ School of Nursing).

2. **Related Documents (refer to policies.rutgers.edu for additional information)**

- A. Facsimile (Fax) Machine Transmittal of Confidential
- B. Sensitive or Protected Health Information
- C. Graduate Medical, Dental and Podiatry Education
- D. Criminal Background Checks for Accepted Applicants for Admission to Schools and Educational Programs and for Currently Enrolled Students
- E. Information Classification
- F. Information Security: Electronic Information and Information Systems Access Control
- G. Information Security: Mobile Computing and Removable Media

3. **The Policy**

- A. Individuals to whom this policy applies will be required to have a criminal background check performed with results deemed acceptable by the University and, when necessary to the program, the clinical facility(ies) affiliated with the residency program prior to commencement of employment. An offer of employment will not be final and clinical activities will not be permitted until the completion of the background check with results deemed acceptable by the University and, when necessary to the program, the clinical facility(ies). Employment or participation in clinical activities may be denied or rescinded, or clinical activities terminated, based upon the results of the criminal background check.

- B. Individuals to whom this policy applies must sign a form authorizing the University to have a criminal background check performed on them by a consumer reporting agency engaged by the University to conduct such checks (EXHIBIT A), complete an Accepted Applicant Disclosure Form requiring information about previous convictions and/or guilty or no contest pleas to crimes, misdemeanors or other offenses and including written authorization by the individual for the University to disclose to clinical facilities reports and supplementary materials obtained in connection with criminal background checks; these individuals must also agree to immediately inform the School in the event of any future convictions, guilty pleas or no contest pleas to any crime, misdemeanor or other offense; and in the event of any future arrests, charges or investigations by any law enforcement authorities or professional licensing authority (EXHIBIT B); and complete a Background Check for Regular and Volunteer Staff personal data form (EXHIBIT C).
- C. The background check shall include a Social Security Number trace to confirm past residences, a search of the U.S. Department of Health and Human Services Office of the Inspector General list of excluded Individuals/Entities (LEIE) and a criminal background search. The criminal background search shall involve all levels of criminal offense, all types of adjudications, all legal processes not yet resolved, and all types of offenses, extending as far back as possible.
- D. Omission of required information, or false or misleading information provided by the individual on the Accepted Applicant Disclosure Form (EXHIBIT B) or in any other communication with the University or its Schools may result in denial or rescission of an offer of employment, disciplinary action or dismissal.
- E. The Schools' Office of Graduate Medical or Graduate Dental Education will inform accepted applicants for housestaff positions that criminal background checks will be performed by means of an announcement in any appropriate communication, such as the housestaff manual, bulletin or any other pertinent informational materials stating that:
- “As a condition of hiring and participation in clinical activities, housestaff officers will be required to authorize Rutgers to obtain criminal background check(s). Applicants for housestaff officer positions may also be required to obtain a background check themselves or authorize clinical training facilities to conduct this check, and to permit the results to be provided by the reporting agency to Rutgers and to clinical facilities at which training may be scheduled. Offers of employment will not be considered final and clinical activities will not be permitted until completion of the background check, with results deemed acceptable by Rutgers and by clinical facilities at which training may be scheduled. If the results of the background check(s) are not deemed acceptable by Rutgers or by the clinical facility(ies), or if information received indicates that the applicant has provided false or misleading statements, has omitted required information, or in any way is unable to meet the requirements for completion of the program, the offer may be denied or rescinded, and/or the housestaff officer may be disciplined or dismissed. Housestaff officers must also agree to notify the Office of Graduate Medical or Graduate Dental Education and the pertinent Program Director of any convictions, guilty pleas or no contest pleas to any crime, misdemeanor or other offense and of any arrests, charges or investigations by any law enforcement authorities or professional licensing authority, which occur subsequent to the applicant's/housestaff's submission of the Housestaff Disclosure Form.”
- F. The following language must be included in:

1. all the criminal background check clauses of individual resident contracts:

“The Resident agrees to immediately notify the School in the event of any future convictions, guilty pleas or no contest pleas to any crime, misdemeanor or other offense; and in the event of any future arrests, charges or investigations by any law enforcement authorities or professional licensing authority.”

2. any clinical contracts related to residents coming to a Rutgers facility:

“Residents are required to immediately inform the School in the event of any future convictions, guilty pleas or no contest pleas to any crime, misdemeanor or other offense; and in the event of any future arrests, charges or investigations by any law enforcement authorities or professional licensing authority.”

- G. If the background check report reveals information of concern which the University may deem unfavorable, the Office of Graduate Medical or Graduate Dental Education will provide the accepted applicant a copy of the report and the document “A Summary of Your Rights Under the Fair Credit Reporting Act” (EXHIBIT D) and require the individual to provide a detailed written description and explanation of the information contained in the report along with appropriate documentation, specifically police reports. (EXHIBIT E is a sample letter for this purpose.) This information must be returned to the Office of Graduate Medical or Graduate Dental Education within 10 working days of the date the communication is sent to the individual or another date specified by the School in its communication with the individual. The University may also independently seek to obtain additional information, such as a copy of the original criminal charge, in order to corroborate the individual’s explanation.
- H. The University, as represented by the Office of Graduate Medical or Graduate Dental Education, the Office of Human Resources, the Office of General Counsel and the pertinent Program Director, will review the report and the accepted applicant’s explanation, and will consider factors such as: the nature and seriousness of the offense, the circumstances under which the offense occurred, relationship between the duties to be performed as part of the training program and the offense committed, the age of the person when offense was committed, whether the offense was an isolated or repeated incident, the length of time that has passed since the offense, past employment and history of academic or disciplinary misconduct, evidence of successful rehabilitation, and the accuracy of the information provided by the accepted applicant in the application materials, Disclosure Form or other materials. If the University deems the background check information unfavorable, or if the information received indicates that the accepted applicant/housestaff officer is in any way unable to meet the requirements for completion of the program, or if the individual fails to provide additional documentation as required, an offer of employment may be denied or rescinded, and/or a housestaff officer may be disciplined or dismissed. (See Section I below.) Unresolved criminal charges in the background check or delay by the individual in providing additional documentation as required may necessitate postponement of the University’s final decision pending the outcome of the matter.
- I. If an individual’s criminal background check report containing information of concern is deemed acceptable to the University, the University may communicate with clinical facilities in which the applicant is expected to receive training at any point during

employment, for the purpose of disclosing the contents of the report and any supplementary materials obtained concerning the contents of the report. The University will not initially identify the individual by name to the clinical facility. If the clinical facility deems the individual unacceptable for training, the individual's name will not be disclosed to the facility and the Office of Graduate Medical or Graduate Dental Education will advise the individual of the adverse decision, in accordance with

Section I below. If the clinical facility deems the individual acceptable for training and requires identification of the individual, the Office of Graduate Medical or Graduate Dental Education will disclose the name. The Office of Graduate Medical or Graduate Dental Education will also advise the individual that his/her identity and background report materials may be disclosed to clinical facilities at which the housestaff officer will work.

- J. If an individual's offer of employment is denied or rescinded, or a currently employed housestaff officer is subject to an adverse action, based on information obtained from a criminal background report, the individual will be advised of the name and address of the consumer reporting agency that furnished the report and of the right to dispute the accuracy or completeness of any information contained in the report by contacting the consumer reporting agency directly. (See EXHIBIT F for a sample letter withdrawing an offer of employment, and EXHIBIT D for a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act.")
 - K. If the University decides, based upon the individual's written description, explanation and documentation about information contained in a criminal background check, that the results of the check are deemed acceptable, the individual shall be informed that the University's positive decision is not a guarantee that every clinical facility will permit the housestaff to participate in its portion of the Rutgers educational program in the future, or that any state will accept the individual as a candidate for employment, permit or licensure. (See EXHIBIT G for sample letter advising applicant of positive decision after review of items of concern.)
 - L. Due to the sensitive nature of the information contained in background check reports, individuals implementing this policy must take steps to limit unnecessary disclosure, and must abide by University policies and procedures governing management and disposal of records (see REFERENCES). In addition to background check results, social security numbers are sensitive information, and appropriate steps must be taken to limit unnecessary disclosure of social security numbers and to preserve the security of background check documents containing them. Reasonable measures, such as shredding, must also be used to protect against unauthorized access or use of the information in connection with disposal of the records.
- I. EXHIBITS
- A. Disclosure and Authorization Form
 - B. Housestaff Disclosure Form
 - C. Rutgers Background Check for Regular and Volunteer Staff
 - D. "A Summary of Your Rights Under the Fair Credit Reporting Act"
 - E. Sample letter from a School to an accepted applicant accompanying a criminal background check report containing information of concern and requesting additional information

- F. Sample letter from a School to an accepted applicant withdrawing an offer of employment
- G. Sample letter advising applicant of positive decision after review of items of concern from a criminal background check

EXHIBIT A

**DISCLOSURE AND AUTHORIZATION FORM
(Faculty, Staff, Housestaff, Volunteers)**

In connection with my application for employment or volunteer service with Rutgers, I understand that a consumer report or investigative consumer report, as those terms are defined in the Federal Fair Credit Reporting Act as amended (FCRA), 15 U S C 1681 et seq., may be obtained by Rutgers from a consumer reporting agency. I understand that the report may include but not be limited to my consumer credit history, education, professional licensing, professional liability claims history, criminal history, driving history, personal character, abilities, work habits, charges of research misconduct, mode of living, residency, immigration status, general reputation, performance, experience and other qualities pertinent to my qualifications for employment or volunteer service, including reasons for termination of past employments. I further understand that the consumer reporting agency may not give out information about me to Rutgers without my written consent.

I understand that I am entitled to be informed if an offer of employment or volunteer assignment is withheld because of information obtained from the consumer reporting agency, and in that event, I have (60) sixty days within which to submit a written request to the consumer reporting agency which will provide me with a copy of my file and a "Summary of Your Rights Under the Fair Credit Reporting Act."

I hereby authorize Rutgers and affiliated clinical facilities where I will be expected to work to obtain consumer reports in connection with my application for employment or volunteer service with Rutgers. I authorize all former employers, listed references, schools, law enforcement agencies and courts, to release to Rutgers and/or their representatives information pertaining to me.

Note: The phrases and wording contained in this authorization are required under the FCRA. Rutgers will not run a credit check on an applicant as part of the investigation unless the position or volunteer assignment for which applied requires financial information on a prospective candidate. The candidate will be notified if a credit check is required.

Please Print

Name: _____ SS#: _____

Other name(s) used: _____

Applicant Signature: _____ Date: _____

EXHIBIT B

(Place on School's letterhead)

Housestaff Disclosure Form

Please answer the following questions and return this form with the Disclosure and Authorization Form.

Have you ever been convicted of, or pleaded guilty or no contest to a crime, misdemeanor or other offense? (All convictions, guilty or no contest pleas must be disclosed unless you have a court order [written document] expunging the incident from your records.)

____ Yes

____ No

If yes, please describe the specific nature, year, location and disposition to date of the charge:

I hereby release Rutgers , its affiliated entities, employees and agents from all liability for requesting the above information and/or criminal background check reports and for acting based on such information and/or reports.

I certify that the information above is true, accurate and complete. Any omission, or false or misleading information may result in actions including, but not limited to, denial or rescission of an offer of admission, disciplinary action or dismissal. I also agree to notify the School of any future convictions, guilty pleas or no contest pleas to any crime, misdemeanor or other offense; and of any future arrests, charges or investigations by any law enforcement authorities or professional licensing authorities by the next business day following the reportable event. If next day reporting is not feasible, I will notify the School as soon as possible, and in no event later than ten working days following the event.

Name: _____
(Please print)

Signature: _____

Date: _____

EXHIBIT C

Rutgers Background Check for Regular and Volunteer Staff

(Refer to uhr.rutgers.edu)

EXHIBIT D

Para informacion en espanol, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

A Summary of Your Rights Under the Fair Credit Reporting Act

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.**

You may have additional rights under Maine's FCRA, Me. Rev. Stat. Ann. 10, Sec 1311 et seq.

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - a person has taken adverse action against you because of information in your credit report;
 - you are the victim of identify theft and place a fraud alert in your file;
 - your file contains inaccurate information as a result of fraud;
 - you are on public assistance;
 - you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.consumerfinance.gov/learnmore for an explanation of dispute procedures.

EXHIBIT D (continued)

- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.consumerfinance.gov/learnmore.
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-567-8688.
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.consumerfinance.gov/learnmore.

EXHIBIT D (continued)

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:

TYPE OF BUSINESS:	CONTACT:
<p>1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates.</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the Bureau:</p>	<p>a. Bureau of Consumer Financial Protection 1700 G Street NW Washington, DC 20006</p> <p>b. Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement & Proceedings Department of Transportation 400 Seventh Street</p>
<p>4. Creditors Subject to Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 1925 K Street NW</p>
<p>5. Creditors Subject to Packers and Stockyards Act</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 406 Third Street,</p>
<p>7. Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F St NE Washington, DC 20549</p>
<p>8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA</p>
<p>9. Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>FTC Regional Office for region in which the creditor operates or Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580 (877) 382-4357</p>

EXHIBIT E

Sample letter from a School to an accepted applicant accompanying a criminal background check report containing information of concern and requesting additional information

Dear _____:

Pursuant to the authorization and information you provided, a criminal background check has been completed. A copy of the report produced by the consumer reporting agency is enclosed for your review. You have the right to dispute the accuracy or completeness of any information contained in the report by contacting the consumer reporting agency directly:

(type name and address of consumer reporting agency)

A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" is enclosed with this letter. Please review carefully each item in the report and provide a detailed, written description and explanation, along with appropriate documentation, **including police reports**. Pending the resolution of this issue to the satisfaction of Rutgers, your pre-enrollment requirements have not been met and your offer of admission is not final.

Please return your response to the Office of Graduate Medical (or Dental) Education within ten working days of the date of this letter. As noted in your application and in your authorization to conduct the background check, your offer of employment may be denied or rescinded, unless the results of your background check are deemed acceptable by Rutgers and/or the clinical training facilities of your program.

Yours truly,

EXHIBIT F

Sample letter from a School to an accepted applicant withdrawing an offer of employment

Dear _____:

This is to inform you that the review of the results of your criminal background check and the explanation you provided has been completed. I regret to inform you that the results are not deemed acceptable by Rutgers . Your offer of employment, which was conditioned on results deemed acceptable by Rutgers or the program's clinical affiliates, is therefore withdrawn.

This decision is based, in whole or in part, on information provided in a consumer report furnished by:

(type name and address of consumer reporting agency)

Please be advised that the consumer reporting agency did not make the decision to take this action and will be unable to provide you with the specific reasons why you were not offered final admission. You have a right to obtain a free copy of the consumer report which the consumer reporting agency prepared on you by writing to the consumer reporting agency. You also have the right to dispute the accuracy or completeness of any information contained in the report by contacting the consumer reporting agency directly. A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" is enclosed with this letter. Yours truly,

EXHIBIT
G

Sample letter advising applicant of positive decision after review of items of concern.

Dear _____:

This is to inform you that the review of your criminal background check report and supplementary materials has been completed. I am pleased to inform you that Rutgers has deemed your results to be favorable and you may continue the employment processing.

Please be advised that this decision does not guarantee that you will be granted privileges at any clinical facility in the future, or that any state will accept your application for registration, permit or licensure.

When required, Rutgers will disclose your criminal background check report and supplementary materials to clinical facilities at which your residency program may assign you for rotations.

Yours truly,