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1. Purpose. To set forth regulations and procedures for filling vacant Positions and establishing new Employees in the Positions, and for the formal process for termination from University employment.

2. Vacant Positions. Vacant University Positions shall be filled through a formal recruitment process.

3. Recruitment Offices. Vacant Positions shall be filled through specific offices as follows:

- Staff Positions—the Human Resources Department;
- Faculty Positions—the VPAA through the Human Resources Department. See Faculty Handbook for recruitment process; and,
- Student positions—the Financial Aid Office. (See Subject C. Student Employment)

4. Recruitment Process—Staff Positions.

4.1 Department Initiates. The Department initiates the request to post a Position opening. A current Position description should accompany a request to post a Position opening. A Position opening may not be posted until all appropriate approvals are obtained.

4.2 Vacancy Announcements. The Human Resources Department:

- Works with the employing Department to identify recruiting venues; and,
- Prepares and communicates vacancy announcements and advertisements.

4.2.1 Departments shall not recruit or advertise for applicants directly except when specifically authorized to do so by the Director of Human Resources or designee.

4.3 Internal or External Recruitment. Departments may request either an internal or external recruitment.

4.3.1 In an internal recruitment:

- Temporary, incidental, seasonal or Student Employees are not eligible for consideration;
- The Position announcement will be communicated;
- Application screening shall begin approximately 5 days after communication of the Position announcement;
- The regular process of screening, interviewing, documenting and selection shall be applicable; and,
- The pay rate for the selected Employee shall be established in accordance with regulations for transfer, promotion and Demotion.

4.3.2 In an external recruitment:

- All applicants 18 years of age and older will be considered;
- The Position vacancy shall be announced by advertising on the designated University web site;
- The Position announcement may also be advertised through other venues as identified by the recruiting department;
- The Human Resources Department shall pay for one initial external advertisement;
- The recruiting Department shall pay for all other advertising;
- Application screening for Staff Positions shall begin approximately 15 days after advertising the vacancy on the designated University web site.

4.4 Screening and Interviewing.

4.4.1 The initial review of applicants shall be completed. Applications of individuals meeting the required minimum qualifications for the Position shall be advanced to the recruiting Department or screening committee.

4.4.2 For Staff Positions, screening and interviewing may be accomplished by the recruiting supervisor or a screening committee. The membership of the screening committee is determined by the recruiting Department.

5. Consensual and Familial Relationships.

In order to maintain the University's high standards of integrity and excellence in its academic and working environments, consistent with the stated Board Policy, these regulations and procedures set out the expectations and responsibilities regarding consensual and familial relationships in the Washburn University community. Not reporting consensual or familial relationships poses a significant risk to the University community, therefore, it is necessary the University receive notification of consensual or familial relationships covered by this policy to prevent conflicts of interest, favoritism, and exploitation.

5.1 Definitions

5.1.1 Consensual Relationship shall mean any amorous or romantic relationship, including but not limited to sexual and dating relationships, or other close personal relationship the nature of which could adversely affect an employee's impartiality. This includes a past amorous or romantic relationship that does not currently exist.

5.1.2 Director of Human Resources: As used in these regulations and procedures,

5.1.2.1 For all sections except in **Section 5.5 Investigation and Discipline** and

Section 5.7 Retaliation, Director of Human Resources shall mean the Washburn University Director of Human Resources except in the following circumstances:

5.1.2.1.1 When the Director of Human Resources is one of the parties in the consensual or familial relationship being addressed, Director of Human Resources shall mean the Vice-President for Administration and Treasurer (“VPAT”).

5.1.2.1.2 When the Director of Human Resources and the VPAT are both parties in the consensual or familial relationship being addressed, Director of Human Resources shall mean the President.

5.1.2.2 For **Sections 5.5 and 5.7**, when the Director of Human Resources is one of the parties in the consensual or familial relationship being addressed, Director of Human Resources shall mean the University Counsel.

5.1.3 Employee means, unless otherwise set out in this policy, faculty, staff and employee positions requiring student status.

5.1.4 Familial Relationship any relationship between an employee and another member of the Washburn community based on kinship or based on an individual’s status as a household member or ward of an employee.

5.1.4.1 Kinship means a spouse, parent, child, or sibling; a sibling, as denoted by the prefix “half”; a parent, child, or sibling as denoted by the prefix “step”; a foster child; a nephew, niece, uncle, or aunt; any parent or child of a preceding or subsequent generation, as denoted by the prefix of “grand” or “great”; or, a parent, child, or sibling related by marriage as denoted by the suffix “in-law.”

5.1.4.2 Household Member means a person having legal residence in or living in the Employee’s place of residence.

5.1.4.3 Ward means a person who is under a guardian’s charge either permanently or temporarily.

5.1.5 Mitigation Plan: A written plan developed as provided in this policy that mitigates the conflict of interest and the potential for exploitation or the appearance of exploitation or favoritism created by the consensual or familial relationship and which plan is acknowledged and agreed to by the parties involved.

5.1.6 Supervisor: An employee, as defined in **Section. 5.1.3** above, or student who:

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- Teaches, manages, supervises, advises, coaches, or evaluates (such as serving on a promotion and tenure committee) in any way other employees, students, or student-athletes; and/or
 - Has a position of authority or otherwise has the ability to influence decisions with regard to other individuals in the learning or working environment of the University, including extra- and co-curricular activities.
 - **Position of authority** - A position of greater authority is one that has responsibility for or influence over admitting, educating, assigning, evaluating or advising students or hiring, promoting, evaluating, assigning or supervising employees. Persons in positions of authority could include faculty and resident assistants. For instance, a faculty member will always be treated as having such a power differential if the student is in an educational experience where the faculty member has evaluative authority such as in assigning grades or serving on thesis, dissertation, or scholarship awards committees.
 - Supervisory relationships may be formal or informal.

5.2 Prohibited Consensual Relationships Considering the potential for exploitation or the appearance of exploitation or favoritism and the inherent differential in authority, the following consensual relationships, even if a single interaction, are prohibited

5.2.1 Between students and their educators, advisors, Supervisors, and others holding Positions of Authority over them. The University prohibits any Employee or affiliate of the University from entering into a consensual relationship with any student currently enrolled at the University whom they teach, manage, supervise, advise, or evaluate in any way.

5.2.2 Between Intercollegiate Athletics coaches, Employees, or affiliates, with any student-athlete or student assigned to or associated with Intercollegiate Athletics, such as interns and student employees whom they teach, manage, supervise, advise, or evaluate in any way. This would prohibit, as an example, a graduate assistant coach from entering into a consensual relationship with a student athlete in the same sport in which the graduate assistant performs coaching duties.

5.2.3 Between any student employee (including resident life advisors/assistants, etc.) and any student whom they teach, manage, supervise, advise, or evaluate in any way.

5.2.4 Reporting Alleged Violations: Any Employee who is notified, or becomes aware of, an alleged violation of this **Section 5.2** has an obligation to report it immediately to the Director of Human Resources

5.3 Reporting or notification of relationship that could be subject to exploitation or favoritism – To avoid the potential for or appearance of exploitation or favoritism, the following circumstances shall be reported *as soon as possible* as set out below.

5.3.1 Situations where a consensual or familial relationship develops between two employees in a direct reporting line, the person in the Position of Authority is required to disclose their relationship to the Director of Human Resources or send an email to cfrelationships@washburn.edu;

5.3.2 Situations where a new employee is hired and has a past or pre-existing consensual or familial relationship with a current employee who would be a Supervisor over the new employee, both the new employee and the current employee are required to disclose their relationship to the Director of Human Resources or send an email to cfrelationships@washburn.edu;

5.3.3 In situations where an individual joins the Washburn community and has either a past or pre-existing consensual or familial relationship with another member of the Washburn community, and one of the persons is a student and one person is a Supervisor over the other, then the Supervisor shall report the relationship to the Director of Human Resources or send an email to cfrelationships@washburn.edu.

5.3.3.1 If a student would like to report the past or pre-existing relationship for their protection, the student may report the relationship to a Supervisor other than the person in the relationship or to the Vice-President for Student Life.

5.3.4 Cooperate with Mitigation Plan. All parties involved in a relationship that requires reporting under this Section shall cooperate with the appropriate persons to develop a Mitigation Plan as outlined in **Section 5.4** below.

5.3.5 Notification to Director of Human Resources. Any person who is not the Director of Human Resources who receives a notification of a consensual or familial relationship pursuant to this policy shall immediately report the information received to the Director of Human Resources.

5.4 Mitigation Plan

5.4.1 Upon receipt of a consensual or familial relationship notification pursuant to Section 5.3 above, the Director of Human Resources shall notify the appropriate member(s) of the Executive Staff (“*E-staff*”) who oversee the area in which the employee(s) involved in the relationship are employed.

5.4.1.1 If the person involved in the consensual or familial relationship is a member of the E-staff, then notification shall be made to the President.

5.4.1.2 If the person involved in the consensual or familial relationship is the President, then notification shall be made to the Chairman of the Washburn University Board of Regents.

5.4.2 If the conflict of interest and the potential for exploitation or favoritism can be successfully mitigated, the Director of Human Resources, as appropriate, along with the appropriate member of the E-staff, and any other person deemed necessary for the process, e.g. Dean, Department Chair/Director, shall collaborate with the Employee(s) in the relationship to develop a written mitigation plan, to be produced within ten (10) business days of the report (unless there are reasonable grounds for additional time).

5.4.3 If the mitigation plan is not agreed to by all parties to the plan, resolution of the disagreement will be determined by the appropriate member of the E-staff.

5.4.4 If the conflict of interest and potential for exploitation or the appearance of exploitation or favoritism created by the consensual relationship cannot be successfully mitigated, and:

5.4.4.1 Involves an existing consensual relationship, then the consensual relationship is prohibited.

5.4.4.2 Involves a familial relationship, or past consensual relationship, any party who is an Employee may be transferred, if available and appropriate, or terminated from their employment position. If any party is a student, that student may transferred from classes in which they are enrolled.

5.4.5 The mitigation plan will:

5.4.5.1 provide an alternative means for managing, supervising, teaching, evaluating and/or advising of the person with the least Position of Authority in the relationship or otherwise mitigate the conflict;

5.4.5.2 give priority to the interest of the person with the least Position of Authority in the relationship;

5.4.5.3 be in writing and signed by both parties to the consensual or familial relationship and the appropriate member of E-staff;

5.4.5.4 provide notice of the University's Non-Discrimination Policy;

5.4.5.5 be reassessed on an annual basis (or sooner if circumstances warrant) by the parties, and the applicable department/unit for necessary modification; and

5.4.5.6 provide notice of any party's right to appeal the determination.

5.5 Investigation and Discipline.

5.5.1 Alleged violations of this policy, including concerns of conflicts of interests, favoritism, and/or exploitation will be investigated by the Director of Human Resources.

5.5.2 If there is a complaint of sexual harassment/sexual misconduct relating to a relationship covered by this policy, and the relationship has not been disclosed and no Mitigation Plan is in place, the responsibility will be on the person in the Position of Authority to explain the failure to comply with this policy. Such failure will be a factor in determining whether the relationship was consensual and free of sexual harassment/misconduct.

5.5.3 Disciplinary action against an Employee will be handled under the appropriate University policies for discipline and dismissal of the Employee. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and termination.

5.5.4 If a benefit conferred by Washburn was received by an Employee or student as a result of actions by the other party in the relationship, and such relationship had not been reported pursuant to the terms of this policy, the University reserves the right to investigate if the benefit was appropriately awarded, and if the University determines that such benefit was not appropriately awarded, the University may rescind any such benefit.

5.6 Safe Harbor: If the person in a consensual or familial relationship as set out in **Section 5.3**, who is in the Position of Authority *immediately notifies* appropriate University offices of the consensual or familial relationship covered by this policy and cooperates to mitigate the effects of the consensual or familial relationship, then a conduct/discipline investigation will not be pursued. Unreported consensual or familial relationships will be considered more severe violations of this policy.

5.6.1 This safe harbor does not apply to potential violations of the University's Nondiscrimination policy.

5.7 Retaliation: Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals and/or adverse actions related to an individual's employment or

education. The University will take appropriate steps to assure a person who in good faith reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the Director of Human Resources. If the report of retaliation appears to also involve the non-discrimination policy, then the Director of Human Resources shall notify the Director of Equal Opportunity.

5.8 Confidentiality: Reports of existing or past relationships will be kept confidential except to the extent necessary to avoid, and address, conflicts of interest and misconduct.

6. Selection and Offer of Employment.

6.1 Basis of Selection. All selections shall be based on reference checks, interviews, and qualifications to perform the duties of the Position. When a screening committee is appointed, its recommendation will also be considered.

6.2 Employment Offers. Offers of employment, including rates of pay and other commitments, shall only be made as follows:

- By the VPAA for all Faculty Positions, and through Human Resources Department for Staff Positions within Academic Affairs;
- By the VPAT through the Human Resources Department for Staff Positions not within Academic Affairs; and, by the Financial Aid Office for Student Positions. (See Subject C. Student Employment)

7. Examinations and Tests.

7.1 Police Officer Positions. Applicants for Positions as Police Officers are subject to special requirements of the Commission on Police Officers Standards and Training. Those requirements include, but are not limited to:

- Medical examinations;
- Various tests; and
- Complete background investigations.

7.2 Background Checks. Applicants may be required to submit to a formal nationwide background check. (See 18. Criminal Background Checks below)

8. Appointment Recommendation.

8.1 A request to hire is submitted as an appointment recommendation.

8.2 Appointment Recommendations for Staff Positions shall be made in coordination with the Human Resources Department. Appointment recommendations for Faculty Positions shall be made in coordination with the VPAA.

8.3 Appointment recommendations require approval prior to the hiring of Staff or Faculty Positions.

9. Rate of Pay Determination. The employing Department shall consult with the Human Resources Department or the VPAA regarding beginning pay rates prior to offering a Position.

9.1 Funding Source. The source of funds shall have no bearing on the rates of pay established for Positions.

9.2 Staff Positions. The beginning wage shall be based upon a number of considerations including, but not limited to:

- Established pay rate for the position;
- Market factors;
- Salaries of similarly placed positions; and
- Amount budgeted for the Position.

9.3 Faculty Positions. The beginning wage is determined by the Major Academic Unit Dean in consultation with the VPAA. The determination is based upon a number of considerations including, but not limited to:

- Market factors;
- Salaries of similarly placed faculty in the academic unit; and,
- Amount budgeted for the Position.

10. General.

10.1 Position Titles. No individual shall be appointed to or employed as Non-Exempt Staff under a title which has not been designated with a classification. (See Subject D. Classification and Compensation)

10.2 Employment Contracts.

10.2.1 Faculty hired by the University are issued an employment contract for the period of a Fiscal Year as specified in the contract.

10.2.2 Faculty whose employment is to be continued shall be offered a new employment contract for the ensuing Fiscal Year. Employment contracts for these individuals shall be issued subsequent to Board approval of the Salary Supplement for the ensuing Fiscal Year.

10.2.3 The signed contract shall be returned to the appropriate employing office (see 6.2 above) by the date specified.

10.3 Begin Work Authorization. Under no condition shall an individual begin work until authorized to do so by the:

- VPAT for Staff Employees who are not within Academic Affairs;
- VPAA for Faculty, and Staff within Academic Affairs; and,
- The Director of Financial Aid or designee for Student Employees.

10.4 Student Priority. Student workers shall be utilized to the maximum extent reasonable in filling work assignments requiring little or no work experience. (See Subject C. Student Employment)

10.5 Minimum Age Requirement. Individuals who are under 18 years of age shall not be employed by the University except as a Student Employee.

10.6 Former Employee Applicants. Former Employee applicants shall be treated in the same manner as other applicants.

11. Appointment Process.

11.1 Board Approval Requirement.

11.1.1 Board approval is required for the appointment of a new Employee when:

- The employment is to a new benefit eligible Exempt Staff or Faculty Position;
- The proposed annual basic salary exceeds the budgeted amount in the then Fiscal Year Salary Supplement by more than 10%; or,
- The appointment is that of President or Vice President.

11.1.2 Recommendation for Board approval is by the applicable Vice President through the President.

11.2 Vice President Appointments. The President makes recommendation for appointment to these Positions.

11.3 Faculty Appointments. Individuals are appointed to vacant Part-Time or Full-Time faculty Positions upon completion of the following approval process:

11.3.1 Recommendation is by the employing Department Head and/or search committee.

11.3.2 The first approval is by the appropriate dean, if applicable.

11.3.3 Final approval is by the VPAA except when the proposed salary exceeds the budgeted amount.

11.3.4 When the proposed salary exceeds the budgeted amount by not more than 10%, final approval is by the President

11.4 Exempt Staff Appointments. Individuals are appointed to vacant Part-Time or Full-Time Exempt Staff Positions upon completion of the following approval process.

11.4.1 Recommendation is by the employing Department Head.

11.4.2 The first approval is by the appropriate Area Head, if applicable.

11.4.3 Final approval is by the VPAA for Staff within Academic Affairs or the VPAT for all other Staff, except when the proposed salary exceeds the budgeted amount.

11.4.4 When the proposed salary exceeds the budgeted amount by not more than 10%, final approval is by the President

11.5 Non-Exempt Staff Appointments. Individuals are appointed to Non-Exempt Staff Positions upon completion of the following approval process.

11.5.1 Recommendation is by the employing Department Head.

11.5.2 The first approval is by the appropriate Area Head, if applicable.

11.5.3 Final approval is by the VPAA for Staff within Academic Affairs or the VPAT for all other Staff.

11.6 Loyalty Oath. All individuals to be employed by the University shall sign the State of Kansas required loyalty oath.

11.6.2 The Payroll Office shall receive and hold all oaths.

12. Employee Eligibility Verification.

12.1 Purpose. The purpose is to set forth regulations and procedures developed to ensure compliance with the federal Immigration Reform and Control Act of 1986 and the regulations of the United States Citizenship and Immigration Services (USCIS).

12.2 Notice to Applicants. Each applicant shall be advised:

- The University hires only citizens and nationals of the United States or aliens who are lawfully authorized to work in the United States; and,
- All individuals employed from and after November 6, 1986 are required to verify eligibility. This is done by completing the applicable portion of the

USCIS Form I-9 (I-9) and by presenting the University with appropriate documentation.

12.3 Responsibility for Verification and Repository.

12.3.1 Concerning Employees in Staff or Faculty Positions, the Director of Human Resources shall be responsible for:

- Ensuring the employment eligibility of each Employee; and,
- Maintaining a repository for all completed I-9s.

12.3.2 Concerning Student and work-study Employees, the Director of Financial Aid shall be responsible for:

- Ensuring the employment eligibility of each Student and work-study Student Employee; and,
- Maintaining a repository for all completed I-9s.

12.3.3 I-9s shall be retained the later of:

- Three years after the date the individual's employment commenced; or,
- One year after the date the individual's employment is terminated.

12.3.4 The time table for completion of the I-9 is:

- I-9 form and instructions to Employee—Not later than the date the Employee begins work;
- Submission of completed I-9 and appropriate documentation to responsible individual—Within three business days of the date employment begins; and,
- Submission of receipt for application for the appropriate document(s) if Employee unable to provide appropriate documentation within three business days of the date employment begins; provided however, actual documents must be presented no later than when the receipt period ends.

12.3.5 A review of the I-9 and documentation provided shall be conducted by the person responsible to determine eligibility for employment. Determination shall be based solely upon information and documentation provided by the Employee.

12.4 Re-employment. Eligibility for re-employment of former Employees shall be based upon new Employee information and appropriate documentation.

12.5 Cause to Refuse to Hire. Cause to refuse to hire, or to terminate the employment of an individual, shall exist when the person:

- Fails to provide required information and documentation verifying employment eligibility; or
- Is determined ineligible for employment.

12.6 Limited Use of Information. The I-9 information may only be used:

- To determine eligibility for employment; and,
- For enforcement of the Immigration Reform and Control Act of 1986.

13. Probationary Periods. Probationary periods are the initial time of an individual's employment at the University or promotion to a different Position, during which the Employee is evaluated to determine fitness to continue in the Position.

13.1 The Probationary Period for Staff Positions:

- Employee's initial University employment shall be 6 months;
- Employee who has been promoted from one Position to a Position which is a higher classification or organizational level shall be 3 months; and,
- Employee who has been transferred from one Position to a Position which is the same classification or organizational level shall be 3 months.

13.2 Probationary Period Extension. Except for transfers or promotions a probationary period may be extended if an Employee's performance does not meet expectations.

13.2.1 The maximum length of an extension shall be six months.

13.2.2 To effect an extension the supervisor shall:

- Conduct a review session with the Employee following the procedures set forth in Subject F. Employee and Labor Relations;
- Complete and sign a probationary "Employee Performance Review" form; and,
- Submit the completed and signed form to the Human Resources Department PRIOR to the end of the probationary period.

13.2.3 An Employee's probationary status is considered complete when a completed and signed probationary "Employee Performance Review" form has been received in the Human Resources Department.

13.3 Probationary Period Termination. An Employee may be released from employment at any time during the Employee's probationary period.

13.4 Post Probationary. Employees successfully completing the probationary period shall continue their employment on a Regular or Contingent basis.

13.4.1 Regular Employment means the Employee is appointed to a Budgeted Position and has satisfactorily completed the probationary period if applicable.

13.4.2 Contingent employment means continuation of employment is subject to availability of funding and/or completion of required certification(s).

13.4.3 The term of employment will depend upon:

- Availability of funds to support the Position;
- Sustained need for the work to be performed; and
- The Employee's satisfactory performance of the work.

14. New Employee Orientations. The newly hired Employee shall be given a formal orientation briefing by the appropriate Department Head and supervisor. This orientation will take place and be completed as soon as possible upon the Employee initially reporting to work. The Department of Human Resources will provide all forms and information necessary regarding:

- Participation in benefits and payroll withholding; and
- Mandatory training programs.

15. Wage and Hour Regulations

15.1. Hours of Work. The established regular hours of work comprising 1.0 FTE employment shall be an average of forty per week. Supervisors shall organize and schedule University operations in a manner resulting in the most efficient and economical use of Employee services.

15.2 Work Schedules.

15.2.1 Department Heads may adjust the work schedule of any Employee or group of Employees under the Department Head's supervision. The adjustments shall be to meet operation demands.

15.2.2 Adjustments to schedules of Full-Time Non-Exempt Staff may result in a work week which is less than forty hours, particularly when the alternate week within the same pay period exceeds forty hours.

15.2.3 A brief period of relief from duty of approximately fifteen minutes at or near the middle of each four hour work period may be authorized by the supervisor.

15.3 Overtime. Supervisors shall organize and schedule work to minimize the need for Employees to work in excess of established work schedules. Employees may be required to work additional hours to meet operational demands.

16. Personnel Records. Official personnel records of Employees shall be maintained for:

- Faculty Employees by the VPAA;
- Staff Employees by the Human Resources Department; and,
- Student Employees by the Financial Aid Office.

16.1 Payroll records shall be maintained by the Business Office.

16.2 Changes in address or legal status must be reported to the appropriate official personnel records office. Such changes frequently affect taxes and/or insurance and other benefits.

16.3 Information concerning an Employee's Position and/or compensation is subject to disclosure under the Kansas Open Records Act.

17. Official Clearance Separation. All non-Student Employees terminating University employment or departing on an extended leave of absence shall complete the actions discussed below. These actions shall be completed prior to the Employee's departure.

17.1 Each Employee who is to be separated from the University shall be reported on the applicable termination form. These forms are available from the Human Resources web page.

17.2 Employees should give the appropriate Department Head a written notice of resignation well in advance of the date of separation. A minimum of 2 weeks is recommended.

17.3 All University owned property assigned to or in the possession of the terminating Employee shall be turned in to the appropriate Department. Such property includes, but is not limited to:

- Keys and parking gate cards;
- Computer equipment and cell phones; and,
- Uniforms.

17.4 Matters related to University property which need a resolution will be pursued by the Human Resources Department or the VPAA office.

18. Criminal Background Checks.

18.1 Purpose. To set forth the regulations and procedures governing the obtaining of criminal background checks and the use of the resulting reports.

18.2 Definitions. For the purpose of these regulations and procedures the following definitions apply:

18.2.1 "Conviction" means a court judgment an individual is guilty of a criminal offense.

18.2.2 "Criminal Background Check" (CBC) means an inquiry of criminal record databases and/or law enforcement agencies to determine whether an individual has been convicted of a criminal offense.

18.2.3 “Criminal History” means an individual’s record, if any, of convictions of a criminal offense.

18.2.4 “Criminal Offense” means a violation of a penal statute, the conviction of which results in the imposition of a fine, imprisonment or both. Criminal offense shall not include minor traffic violations.

18.2.5 “Hiring Authority” means: (a) the Vice President for Academic Affairs (VPAA) for Faculty Employees; and (b) the Vice President for Administration and Treasurer (VPAT) for all Staff Employees other than those reporting to the President. The hiring authority for the Vice Presidents and other direct reports to the President is the President.

18.2.6 “Sensitive Position” means a category of duties and/or responsibilities which includes, but is not limited to, one or more of the following:

- Law enforcement or University security or safety responsibilities;
- Access to, possession or distribution of controlled substances;
- Responsibility for Students and/or minors which positions include, but are not limited to: faculty; coaches, assistant coaches, and coaches’ assistants; athletic trainers; residence hall directors, assistant directors and assistants; admissions’ counselors; physicians, physician’s assistants and nurses; ArtLab staff; and University counseling personnel;
- Access to, control over, or responsibility for cash, checks, credit cards, cash card or other negotiable instruments;
- Authority to commit the University for financial obligations;
- Control over the University’s business processes; or,
- Access to building master or sub-master keys for building access.

18.3 Applicants. CBCs shall be conducted on all individuals to whom a conditional offer of temporary or regular employment in a sensitive position has been made. (See Subject C, Student Employment, for regulations regarding Student Employment background checks.)

18.4 Employees.

18.4.1 A CBC shall be conducted on an Employee in a sensitive position when a credible source reports the Employee has been convicted of a crime, or the Employee discloses having been convicted of a crime.

18.4.2 A CBC shall be conducted on an Employee when the Employee is being considered for Transfer, Promotion, or Demotion into a sensitive position and on whom a CBC has not previously been conducted.

18.4.3 The Employee shall complete a Pre-employment Disclosure and Release form for conducting a CBC.

18.4.4 An Employee's failure to consent to a background check shall subject the Employee to disciplinary action.

18.5 Former Employees. A CBC shall be conducted on former Employees to whom a conditional offer of employment in a sensitive position is made when:

- The individual's last University employment terminated more than 1 year prior to the date the new employment would begin.

18.6 Arrest Information. Arrest information shall not be considered in the selection process.

18.7 Notice to Applicants. Notice the University conducts CBCs shall be provided to all individuals seeking employment at the University, and for those applying for a change to a sensitive position within the University. Such notice may be provided in Position announcements, in the application for employment, and/or in direct communications in writing to applicants and nominees for employment. The notice shall include the statement "arrest information is not considered in the selection process".

18.8 Applicant or Employee Authorization.

18.8.1 A Pre-employment Disclosure and Release form authorizing a CBC shall be completed by individuals to whom a conditional offer of employment Transfer, Promotion, or Demotion has been made.

18.8.2 An applicant's failure to authorize a background check shall render the conditional offer of employment null and void.

18.8.3 An Employee's failure to consent to a background check shall subject the Employee to disciplinary action and/or render the conditional offer of employment null and void.

18.9 Conducting the Criminal Background Check.

18.9.1 The President shall designate one Employee to receive CBC reports who shall be referred to as the background check coordinator (coordinator). This includes reports on Students who have placed CBC orders as required for participation in an academic program.

18.9.2 An order for a CBC shall be placed according to instructions provided by the coordinator.

18.9.3 The coordinator shall receive all CBC reports electronically and shall not forward reports to anyone else on campus nor print out reports.

18.10 Reviewing Potentially Adverse Information.

18.10.1 The coordinator shall notify the hiring authority when a CBC report discloses potential adverse information.

18.10.2 The hiring authority or designee shall have the responsibility for reviewing any criminal history to determine whether the report discloses a conviction which is job related. Only convictions of criminal offenses related to the position shall be considered in the determination of employment, or continued employment of an individual. Factors which may be used for determining a conviction is job related include, but are not limited to:

- Date of the conviction;
- Nature of the criminal offense;
- Age of the person when convicted;
- Work history since conviction;
- Severity of the criminal offense;
- Position duties and responsibilities; and,
- Conduct and/or rehabilitation efforts since.

18.10.3 Other offenses may be determined to be disqualifying on a position-by-position basis. These disqualifying offenses shall be determined by the hiring authority prior to release of the position announcement. Guidelines for determining the additional offenses are in Section 18.10.2 above.

18.11 Conditional Offer of Employment. An offer of employment shall be conditioned on the absence of a criminal history disclosing any conviction of a job related criminal offense.

18.12 Confidentiality. CBCs shall be conducted confidentially so as to respect the privacy of the individual. Disclosure of CBC results and information shall be made only to those individuals who have a need to know.

18.13 Pre-adverse Notice. When it is determined, based in whole or in part on the information in a background check report provided by a Consumer Reporting Agency (CRA), an individual may not be hired for the Position, the following steps must be taken.

18.13.1 The hiring authority shall notify the coordinator of the determination.

18.13.2 The coordinator shall cause the CRA to issue a pre-adverse action notice upon receiving notice of the determination. For purposes of this section, adverse action means a determination:

- Denying employment;
- Denying promotion;
- To demote; or,
- To terminate.

18.13.3 An applicant or Employee shall have the right to challenge the CRA's report within 5 days from the date of the pre-adverse action notice following the guidelines set forth in such notice.

18.13.4 The hiring authority shall make no decision until resolution of a challenge, if any. The hiring authority shall notify the coordinator of the decision.

18.14 Other Resources for Background Information. The criminal background regulations shall not operate to prohibit other inquiries concerning an applicant for employment or of an Employee. Other resources for inquiries include, but are not limited to, references, transcripts, credit reports, and motor vehicle reports.

18.15 Files. No CBC reports shall be maintained by the University.

19. Drug and Alcohol Testing.

19.1 Purpose. To set forth regulations and procedures for the administration of drug and alcohol testing of Employees or prospective Employees.

19.2. Definitions. The following definitions apply to the Drug and Alcohol Testing regulations and procedures:

19.2.1 "Alcoholic Liquor" means alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable or being consumed as a beverage by a human being, but shall not include, any cereal malt beverage.

19.2.2 "Cereal Malt Beverage" means any fermented, but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.

19.2.3 "Designated Safety Sensitive Position" means any Position in which the incumbent's failure to perform could result in a catastrophic occurrence to the University or individuals with whom the University and its Employees interact. These Positions include, but are not limited, to the following:

- Law enforcement officer;
- Police Dispatcher (Communications Specialist);
- Any position including duties and responsibilities relative to operating the University's boiler system on a temporary or incidental basis;
- Bargaining Unit positions covered by the Memorandum of Agreement;
- University physician;
- Science Laboratory Supervisor;
- Nursing professional in Student Health Center;
- Nursing and Allied Health faculty providing direct health care to individuals or providing supervision of others rendering direct health care to individuals;
- Positions requiring a Commercial Driver's License (CDL); and,

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- Individuals regularly transporting Students for University functions, extra-curricular activities or classes.

19.2.4 “Controlled Substance” means any drug, substance or immediate precursor included on the schedules designated in the state of Kansas Uniform Controlled Substances Act, K.S.A. 65-4101 (*et seq.*).

19.2.5 “Drug Paraphernalia” means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. K.S.A. 65-4150(c), (*et seq.*).

19.2.6 “Illegal Drugs” means any controlled substance as defined above, including but not limited to, marijuana, cocaine, crack, methamphetamine, heroin or other street drugs.

19.2.7 “Reasonable Suspicion” means reasonable belief an Employee, in performance of the Employee’s duties, may be or is impaired by or under the influence of alcohol, cereal malt beverage, or drugs based on specific facts and inferences taken from those facts. Facts and circumstances which may create reasonable suspicion include, but are not limited to:

- Unusual or erratic personal behavior;
- Reports of abuse of alcohol from credible sources;
- Reports of possession or use of illegal drugs or unauthorized use of controlled substances from credible sources;
- Smell of alcohol;
- Slurred speech;
- Appearance;
- Involvement in an accident:
 - ❖ Involving the operation of a motor vehicle or self-propelled mechanical equipment, which may include but is not limited to a riding mower or tractor;
 - ❖ Causing bodily injury to any Individual requiring medical treatment beyond first aid; or,
 - ❖ Causing significant damage to property;

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- Deteriorating performance over an extended period of time.* Trends of deteriorating performance include, but are not limited to:
 - ❖ Excessive absenteeism;
 - ❖ Peculiar excuses for absences;
 - ❖ Excessive tardiness;
 - ❖ Decreasing reliability;
 - ❖ Excessive use of sick leave;
 - ❖ Missing deadlines; or,
 - ❖ Making bad decisions frequently.

*CAVEAT: Prior to seeking drug or alcohol screening on the basis of deteriorating performance, the supervisor should first have counseled the Employee on performance issues. Drug screening of an Employee under this category cannot be based on a single event or incident.

19.2.8 “Simulated Controlled Substance” means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material simulates the effects of a controlled substance. K.S.A. 65-4150(e), (*et seq.*).

19.2.9 “Unauthorized Controlled Substance” means the possession and/or use of any controlled substance by any individual:

- To whom it was not lawfully dispensed; or,
- In a manner inconsistent or contrary to the use and manner for which it was dispensed to such individual.

19.3 Prohibitions.

19.3.1 Manufacturing, distributing, dispensing, using, or possessing illegal drugs, simulated controlled substances and/or unauthorized controlled substances by a University representative, agent or Employee on or in University property or in the conduct of University business shall be prohibited. *Exceptions:* This prohibition shall not apply to:

- Individuals licensed by the state of Kansas to dispense or distribute a controlled substance and acting within the scope of such license;
- Possession of such substances for educational purposes in academic coursework and/or training in courses offered by the University;
- Possession for training law enforcement officers or Employees; or,
- Possession as evidence for prosecution in a legal or disciplinary proceeding.

19.3.2 The possession and use of drug paraphernalia by a University representative, agent or Employee on or in University property or in the conduct of

University business shall be prohibited. *Exceptions:* This prohibition shall not apply to possession of such paraphernalia:

- For bona fide educational purposes in academic coursework and/or training in courses offered by the University; training law enforcement officers or Employees; or,
- As evidence for prosecution in a legal or disciplinary proceeding.

19.3.3 The unauthorized possession or use of alcoholic liquor or cereal malt beverages by a University representative, agent or Employee on or in University property or in the conduct of University business shall be prohibited. *Exceptions:* This prohibition shall not apply to the:

- Responsible consumption of alcoholic liquor or cereal malt beverages at functions attended as a University representative and at University sponsored or co-sponsored events;
- Possession or consumption for bona fide educational purposes in academic coursework and/or training in courses offered by the University; training law enforcement officers or Employees; or,
- Consumption of alcoholic beverages expressly authorized by permit issued under the University's Alcoholic Liquor/Cereal Malt Beverages Policy.

19.4 Pre-employment Testing. A required drug screening test of applicants for designated safety sensitive Positions will be administered following the acceptance of a conditional offer of employment.

19.4.1 The testing protocol may be either by hair analysis, urinalysis, or blood analysis.

19.4.2 The time and place for submitting to a drug screening test shall be provided to the applicants.

19.4.3 Failure to submit to required drug screening tests or a return of positive test results shall render the conditional offer of employment null and void.

19.5. Reasonable Suspicion Reporting and Testing. The required drug and/or alcohol screening test of Employees shall be administered upon reasonable suspicion of prohibited use or consumption of alcoholic liquor, cereal malt beverage, illegal drugs, or unauthorized use of controlled substances.

19.5.1 Supervisors have a duty to note and report to their supervisor(s) any behavior of Employees for whom they have responsibility indicating the Employee(s) may be impaired by or under the influence of drugs, alcohol, and/or cereal malt beverage.

19.5.2 The determination to subject an Employee to drug or alcohol screening on the basis of reasonable suspicion shall be made:

- By two supervisory Employees having responsibility for the Employee one of whom shall normally be the Employee's direct supervisor; and,
- Upon facts and circumstances, such as those identified in Section 19.2.7 above, reported and/or observed about the Employee when there exists sufficient facts and circumstances to conclude there is reasonable suspicion the Employee may be impaired by or under the influence of drugs, alcohol, and/or cereal malt beverage.

19.5.3 The supervisor shall cause the Employee to be escorted to a screening facility. The escort shall remain at the screening facility until the screening is concluded.

19.5.4 The testing shall be conducted in the manner deemed appropriate by the Administration in its sole discretion including, but not limited to:

- Urinalysis;
- Analysis of saliva;
- Sweat and breath samples; and,
- Blood sample analysis.

19.5.5 An Employee's use of prescribed medications or over the counter medications should be disclosed prior to the administration of a drug screening test.

19.5.6 Alcohol testing normally shall be performed through administration of an evidential breath analysis.

19.5.7 Testing for illegal drugs or unauthorized controlled substances normally shall be performed as a urine test. All such samples shall be split and tested for the presence of the substances and at the test cutoff concentrations indicated in Section 19.8 below. The sample shall undergo preliminary screening for such substances with a confirmatory test of positive results at the request of the individual from preliminary screens performed using current generally accepted practices for such confirmatory screens which may include, but are not limited to, gas chromatography/mass spectrometry technology.

19.5.8 Following administration of a drug or alcohol screening test, the Employee will be transported to the Employee's residence and remain off work until test results are obtained. If the test results are:

- Negative, the Employee shall be returned to work and receive pay for lost salary or wages; or,
- Positive, the Employee shall be subject to disciplinary action.

19.5.9 Confirmed positive results from prescribed substances or over the counter medications may occur. When a confirmed positive result may have been caused by a prescribed medication or over the counter medication, the Employee may consult with a University provided physician for determination on substance abuse or use.

19.5.10 Refusal or failure to participate in a drug or alcohol screening test shall be deemed a positive test result.

19.5.11 Results of drug and/or alcohol screening tests shall be kept confidential. Only individuals with a need to know the information or who are involved in the matter or resolution of the Employee's or applicant's status shall have access to the information.

19.6 Disciplinary Action. Any violation of the Drug and Alcohol Testing Policy or these regulations will subject an Employee to disciplinary action, up to and including termination.

19.6.1 The disciplinary sanction recommended to the Employee's hiring authority shall be based upon:

- The nature of the Employee's job duties and/or responsibilities;
- The degree of risk to the University for continued employment; and,
- In the case of post-accident testing, the degree of damage or injury caused by the Employee.

19.6.2 Termination of the Employee shall be imposed for violation of a drug and alcohol testing policy or regulation when the Employee:

- Is in a probationary status;
- Is a temporary or incidental Employee;
- Has two confirmed positive test results within a five year period of any first such result for illegal drugs and/or unauthorized controlled substances or for abuse of or being under the influence of alcohol in violation of University policy and these regulations and procedure; or,
- Intentionally tampers with a sample provided for a drug screen, violates chain of custody of the sample or falsifies a test result.

19.7 Self-Reporting. An Employee may self-report concerns about his or her possible drug (controlled or illegal) or alcohol abuse to the Employee’s Department Head for the purpose of seeking a leave of absence for treatment/counseling when such disclosure is not made to evade a drug and/or alcohol test. An Employee who voluntarily discloses concerns with possible drug and/or alcohol abuse shall not be disciplined when such disclosure occurs prior to notification that the Employee is subject to a random or reasonable suspicion drug and/or alcohol test. An Employee who discloses drug and/or alcohol abuse concerns shall be provided an opportunity to take leave to enter a drug or alcohol treatment or counseling program.

19.7.1 An Employee may self-report only once during employment.

19.7.2 A self-reporting Employee remains subject to all drug testing and other requirements as outlined in these regulations.

19.8 Random Drug Screening. Random testing may be conducted of Employees in safety sensitive positions, or, for a 24 month period, Employees on a performance improvement plan for violation of a drug and alcohol policy or regulation.

19.9 Test Cutoff Concentrations.

Drug Class	Cutoff Concentrations (ng/ml)	
	Initial	Confirmatory
Amphetamines	1000	500
Barbiturates	300	300
Benzodiazepines	300	300
t a-hydroxyalprazolam		100
Cannabinoids	50	15
Cocaine metabolite	300	150
Opiates	300	150
Phencyclidine (PCP)	25	25
Propoxyphene	300	300
Alcohol via breath or blood analysis	.04	.04

20. Telecommuting. Telecommuting is an approved work arrangement, for a specified time, in which some or all work duties are performed remotely at an off-campus location (e.g., home) by an Employee. Either the Employee, the Department or Administration, may initiate a request to telecommute. Telecommuting arrangements are not permanent and subject to change.

20.1 Employees approved to telecommute are expected to adhere to the following:

- Will comply with all Federal, State, Local and/or University, policies, regulations and procedures that would apply if the Employee were working at the regular University worksite;

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- Will review the University's Information and Technology Services regulations and procedures as described in the WUPRPM, Regulations and Procedures, section BB. Information and Technologies Services prior to or at the start of telecommuting;
 - Hours of work, compensation, record keeping (e.g., time sheets) meal periods, breaks, requests for leave (e.g., personal and/or sick) will be followed as if the Employee were working at the regular University worksite. Non-exempt Employees will receive prior approval from their supervisor before performing any overtime work while telecommuting;
 - Will establish an appropriate remote work environment to ensure reasonable safety and health standards. Any costs associated with the setup of an off campus site will be the responsibility of the Employee. Additional telecommuting costs, which may be required by the University, will need pre-approval prior to purchase. Duties will be performed in an appropriate and safe work environment. Employees will be covered by workers' compensation for job-related injuries/illness which occur in the course and scope of employment while telecommuting and are expected to follow appropriate procedures when reporting a work related injury/illness or seeking treatment;
 - Employees are responsible for notifying their supervisor of any problems with connectivity and technological access needed to perform work duties.
 - Ensure the protection of University property, including equipment and data. This may include, but is not limited to, locked files, regular password maintenance and other procedures necessary for the job and the environment;
 - Responsible for the same performance and conduct expectations, including communications with colleagues, supervisors and/or Employees whom they supervise, as if they were working at the regular University worksite and will notify supervisor promptly if there is not a sufficient amount of work to perform while telecommuting.

20.2 Supervisors of employees approved to telecommute are expected to adhere to the following:

- Comply with all Federal, State, Local and/or University, policies, regulations and procedures that would apply if the Employee were working at the regular University worksite.
- Determine and convey job responsibilities and reasonable performance expectations and goals, including special performance reviews as appropriate.
- Adjust schedules, including in-person or telecommute duties, as needed to ensure appropriate functions of the unit are being met.