

UNC Charlotte
Policy Statement #127
Post-Employment Criminal Activity Reporting

1. Purpose Policy

a. ~~To provide a safe learning and working environment for all students, staff, and faculty at UNC Charlotte, this Policy requires an Employee to report, in accordance with the procedure in Section 2 below, when the Employee receives any criminal charge(s) and/or conviction(s) for (1) felonies or (2) crimes or misdemeanors other than minor traffic violations, regardless of when those charges or convictions occur, including, but not limited to~~ To provide a safe learning and working environment for all students, staff and faculty at UNC Charlotte, this Policy requires Employees to report criminal charges and convictions for the following offenses regardless of when those charges or convictions occur:

i. **Felonies**

- i. ~~i.~~ Drug- or alcohol-related ~~charges or convictions crimes~~ (pursuant to [Policy Statement #87, Program to Prevent Use of Illegal Drugs and Alcohol Abuse](#))
- ii. ~~ii.~~ ~~Charges or convictions involving s~~Sexual assault or abuse
- iii. ~~iii.~~ Crimes of violence (as defined in [Chapter 1, Section 16 of Title 18, United States Code](#))
- iv. ~~iv.~~ Fraud, ~~theft, identity theft,~~ or any other misuse of money, funds, credit, or government property
- v. ~~v.~~ ~~Charges or convictions involving i~~nvasion of privacy, ~~identity theft,~~ or stalking
- vi. ~~vi.~~

b. "Charge" means an accusation of a crime by a formal complaint, information, or indictment.

b-c. "Conviction" means a guilty verdict, guilty plea, or a "no contest", *nolo contendere*, or Alford plea regarding any of the crimes ~~or misdemeanors~~ noted in Section 1(a) above.

d. "Employee" means any permanent or temporary SPA employee, EPA ~~employee~~staff, or faculty member, or candidate for employment.

2. Procedure

a. ~~An Employees are is~~ required to report ~~a charges~~ and/or convictions to ~~his/her their immediate supervisor (or higher level supervisor if their immediate supervisor is not available) or unit head~~ as soon as possible and no later than the beginning of the next business day immediately following the charge and/or conviction. If the charge and/or conviction occurs during a non-work day, ~~the Employees~~ should attempt to contact ~~their his/her immediate supervisor or unit head~~ prior to returning to the workplace. ~~In lieu of notifying the supervisor or unit head, SPA and EPA staff may notify the Director of Employee Relations, and faculty may notify the Associate Provost for Academic Budget and Personnel; provided, however, that the Director of Employee Relations or Associate Provost for Academic Budget and Personnel may contact the Employee's supervisor or unit head to determine the relevancy of the charge or conviction to the Employee's current job responsibilities.~~

b. Due to the public nature of University employment, ~~an Employees~~ who expects to be ~~indicted, charged, and/or convicted, are advised to~~ must notify ~~their his/her immediate supervisor or unit head~~ of the circumstances relating to ~~their the~~ case prior to ~~their the~~ indictment, charge, and/or conviction.

c. Supervisors of SPA and EPA staff are required to notify the Director of Employee Relations, Training and Compliance ~~as soon as possible~~, and supervisors of faculty are required to notify the ~~Associate Provost for Academic Budget and Personnel~~Provost, but in any event ~~Such notice must be within three business days~~the first business day after receiving information from the Employee (and/or other source(s)) regarding a charge and/or conviction.

d. Upon receiving notice of a charge against and/or conviction of an Employee, the Human Resources Department (for SPA and EPA staff) or the Associate Provost for Academic Budget and Personnel (for faculty) will conduct a criminal background check on that Employee upon providing written disclosure to

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the Employee and upon receipt of the Employee's written consent, if such consent is required by law. If the criminal background report reveals a prior criminal conviction that the Employee did not self-disclose, if required, at the time of hire, such falsification of the employment application will be considered sufficient grounds for disciplinary action, up to and including separation from employment.

3. Investigatory Suspension and/or Disciplinary Action

- a. If an Employee is charged with and/or convicted of charges involving physical violence (including, but not limited to, domestic violence) the Employee may be placed on investigatory suspension until an investigation can be completed to make a determination as to whether or not the Employee is fit for duty. Such an investigation may include a requirement that the Employee present documentation from a qualified mental health practitioner certifying he or she does not pose a threat to self and/or others in the workplace. Employees will be responsible for any costs associated with obtaining a fitness for duty certification in the above circumstances.
- b. Employees of the University are Employees of the ~~s~~State of North Carolina and, as such, are expected to conduct themselves according to the federal and state statutes both in the workplace and in the community. Conviction of an Employee for participating in criminal activity is considered unacceptable personal conduct (specifically conduct unbecoming a state Employee that is detrimental to state service) and may result in disciplinary action up to and including separation from University employment. When the University becomes aware of charges against an Employee, but there has been no conviction, the totality of the circumstances surrounding a charge of criminal activity may be sufficient to be considered unacceptable personal conduct by the Employee. Based on the totality of the circumstances surrounding a charge of criminal activity, the charge itself may be considered unacceptable personal conduct by the Employee. (How can an unsubstantiated charge be considered unacceptable personal conduct?)
Charges and/or convictions will be evaluated in relation to the position the Employee currently holds at the University. The principal factors to be taken into consideration in determining whether or how the Employee should be disciplined are as follows:
 1. The relevance of the charge or conviction to the Employee's assigned duties and responsibilities, as well as the effect the charge or conviction will have on the Employee's ability to carry out his or her job responsibilities;
 2. The potential threat that the Employee may pose to the University community based on the charge or conviction;
 3. The potential damage that the charge or conviction will do to the University's reputation;
 4. The date and place of the charge or conviction; and
 5. The Employee's overall criminal record and UNC Charlotte employment history.

Charges and/or convictions which do not result in separation from University employment will be considered should the Employee apply for other positions (including promotional opportunities) and will be reevaluated in relation to the position for which the Employee has applied.

- c.
- d. Violation of this Policy may result in disciplinary action in accordance with the policies and procedures applicable to the Employee's status.
- e-e. Employees who receive disciplinary action due to a charge and/or conviction or violation of this Policy will have appeal rights in accordance with the policies and procedures applicable to the Employee's status, as follows:
 1. SPA Employees: PIM-35 (<http://www.hr.uncc.edu/Policies/PIM35.htm>), Grievance and Appeal Procedures for Employees Subject to the State Personnel Act
 2. EPA ~~Employees~~Staff: Policy Statement #64, Personnel Policies for Designated Employment Exempt from the State Personnel Act (<http://www.legal.uncc.edu/policies/ps-64.html>)
 3. Faculty: Tenure Policies, Regulations, and Procedures, Section 8 (<http://www.legal.uncc.edu/tenurepol.html#s8>)

References:

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Criminal Background Report Procedure for SPA Positions

<http://www.legal.uncc.edu/CrimebackSPA.pdf>

Criminal Background Report Procedure for EPA Positions

<http://www.legal.uncc.edu/CrimebackEPA.pdf>

Criminal Background Report Procedure for Faculty

<http://www.legal.uncc.edu/CrimBackFaculty.pdf>

Policy Statement #87, Program to Prevent Use of Illegal Drugs and Alcohol Abuse

<http://www.legal.uncc.edu/policies/ps-87.html>

Policy Statement #90, Fraudulent Disclosure or Willful Nondisclosure in Applying for Employment

<http://www.legal.uncc.edu/policies/ps-90.html>

North Carolina State Policy on Disciplinary Action, Suspension and Dismissal

<http://www.osp.state.nc.us/manuals/manual99/disaction.doc>

PIM 07 – University Policy on Disciplinary Action, Suspension and Dismissal

<http://www.hr.uncc.edu/Policies/PIM07.htm>

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