



WISCONSIN STATE FAIR PARK CRIMINAL BACKGROUND CHECK POLICY

I. PURPOSE

Wisconsin State Fair Park (WSFP) has the responsibility to ensure the safety and security of the people and properties under its care. As such, WSFP shall require a criminal background check on prospective and current employees (paid and unpaid), volunteers and contractors. This policy ensures the safety of the community, staff, volunteers and patrons as well as ensure the safety of WSFP's collections and properties.

WSFP recognizes its responsibility to comply with the provisions of the Wisconsin Fair Employment Act throughout the recruitment and hiring process, including the use of an applicant's criminal history. While the Wisconsin Fair Employment Act prohibits employment discrimination because of an arrest or conviction record, WSFP may base an employment decision upon pending criminal charges and/or conviction record if the circumstances of the offense substantially relate to the duties, responsibilities and responsibilities of the job. Additionally, WSFP will comply with the provisions of the Fair Credit Reporting Act when necessary.

II. DEFINITIONS

Arrest Record: Includes, but is not limited to, information indicating that an individual has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority. *See s. 111.32(1), Wis. Stats.*

Conviction Record: Includes, but is not limited to, information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or parole pursuant to any law enforcement or military authority. *See s. 111.32(3), Wis. Stats.*

Criminal Background Check: Collection and review of an individual's arrest and conviction record. This could include out-of-state as well as in-state checks if the person worked or resided outside of Wisconsin.

Criminal Charge: A criminal complaint, information, or indictment filed in a state or federal court of law.

Criminal Conviction: A conviction punishable by a fine or period of supervision by a federal, state or local law enforcement agency (e.g. probation, parole or incarceration in a jail or prison).

Fair Credit Reporting Act (FCRA): A federal law (codified at 15 U.S.C. § 1681 et seq.) that regulates the collection, dissemination, and use of consumer credit information. Along with the Fair Debt Collection Practices Act, it forms the base of consumer credit rights in the United States.

Fiduciary Responsibility: Under the Fiduciary Responsibility Law (s. 230.17(3), *Wis. Stats.*), positions where the duties involve the following:

- Handle, receipt for, or have custody of money, checks or securities, or account for supplies or other property; authorize (or make appropriations for) expenditures; approve, certify, sign or countersign checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or serve process; or
- Maintain or audit accounts of money, checks, securities, time records, supplies or other property, or take physical inventories of money, checks, securities, supplies or other property.

Other Background Checks: Includes credit reports, sex offender registry, driving history, professional license and credential history and status, drug analyses and psychological evaluations.

Substantial Relationship: Information having a considerable connection to or association with the duties and responsibilities of the position.

Wisconsin Fair Employment Act (WFEA): The state law (*s. 111.31-.395, Wis. Stats.*) that prohibits employment discrimination on the basis of a number of factors including arrest and conviction records. The WFEA makes an exception for the use of these records for employment decisions when it can be demonstrated that a person's pending charges or convictions are substantially related to the job.

III. SCOPE OF POLICY

Criminal and/or other background checks will be conducted on candidates aged 18 years and older being considered for the following types of positions:

- Paid Permanent & Limited Term
- Volunteer
- Contract

In addition, background checks are required prior to appointment when any of the following conditions apply:

- The position requires use of a firearm (*s. 941.29, Wis. Stats.*)
- The position's duties involve fiduciary responsibility, as defined

Minors under the age of 18 years are exempt from this policy and WSFP will not conduct background checks on minors considered for employment.

IV. DETERMINATION CRITERIA

While the WFEA prohibits discrimination because of an arrest or conviction record, an employment decision can be based upon a *pending* criminal charge or conviction record if the circumstances of the offense are substantially related to the duties and responsibilities of the position or if it is required by law. In determining whether a substantial relationship exists, the following factors should be taken into consideration, which do not necessarily include all factors that may be considered depending on the situation:

A. The Position

1. The nature and scope of the position's public contact
2. The nature or scope of the position's discretionary authority and degree of independence in judgment relating to decisions or actions which affect the public
3. The extent to which acceptable job performance requires public or customer trust and confidence
4. The opportunity the job presents for the commission of similar offenses
5. The amount and type of supervision received in the position
6. The amount and type of supervision provided by the position to subordinate staff, if any
7. The sensitive nature of the data or records maintained by the position
8. The fiduciary responsibility of the position, if any
9. Whether the position is one for which the Legislature has determined certain offenses to be a bar to employment (such as caregivers)
10. The nature and scope of the position, including key access to residential facilities, key access to other facilities, access to firearms, cash, and vulnerable populations, including minor children

B. The Offense

1. Whether intent is an element of the offense
2. Whether the elements of the offense are substantially related to the job duties
3. Whether the circumstances of the pending charge or conviction arose out of an employment situation
4. Whether the offense, under Federal or State law, is a bar to employment for the specific job
5. The statutory elements of the offense

C. The Individual

1. The number, type, and frequency of pending charges and convictions
2. The length of time between pending charges or convictions and the employment decision
3. The length of time between completion of incarceration for the conviction and employment decision
4. The individual's employment history, including references
5. The individual's participation in or completion of rehabilitative programs
6. The individual's probation, parole, or extended supervision status

7. The individual's ability to perform the job consistent with safe, efficient, and effective operations of the program
8. The age of the individual on the date of the charges or convictions

V. STAFF DESIGNATION

The Human Resources (HR) Department is solely responsible for the collection of background information and review of results. This includes designating staff responsible and extends to any third-party investigator.

VI. CONFIDENTIALITY

Information collected in connection with a background check will be kept confidential except on a need-to-know basis or as required by the Wisconsin Public Records Act. Background check information and records will be maintained securely by the Human Resources Department in accordance with the applicable retention period and will not be given to a hiring supervisor (or designee), interviewer or any non-HR staff involved in the recruitment process. Failure to keep confidential or inappropriate use of background information is a work rule violation and is subject to discipline.

Interviewers may **not** ask any question related to a candidate's arrest, conviction or pending charge record. If a candidate volunteers this information, the interviewer **is not allowed** to follow-up on the information. They must instead inform the candidate that the information is not relevant to this step of the recruitment process, that all hiring decisions are made in accordance with the law and refer the candidate to HR. They should then steer the conversation back to the actual interview process as soon as possible.

Those charged with the responsibility to collect and review background information will be required to complete a Confidentiality Agreement (see Attachment 1).

VII. PROCEDURES

A. Job Announcements

All job announcements created per the WSFP Recruitment & Selection Policy will include a statement notifying applicants that a criminal background check will be conducted, similar to: "Prior to appointment to this position, the candidate will be subject to a comprehensive criminal background check."

B. Candidate Selection

Candidates who have been determined as suitable for a position after the requisite application reviews, interviews, skills assessments and reference checks will be required to complete an [Applicant Disclosure Form](#) (see Attachment 2) to initiate the background check process. The background check comes toward the end of the recruitment process and **cannot** be used by hiring supervisors as a pre-screening step to determine a candidate's suitability for a position prior the application review, interview, skills assessment and reference check processes.

The hiring supervisor or designee will provide the [Applicant Disclosure Form](#) to the candidate and send the completed document to HR. HR may also facilitate this process if requested. In addition, HR will facilitate all FCRA background checks (see Attachment 3). A candidate who refuses to complete the required form will not be allowed to continue in the recruitment process and will be removed from consideration for that position. The hiring supervisor or designee **must** inform HR of the name of a candidate who refused to complete the form and the position for which they applied.

After a thorough review and determination of the results, HR will notify the hiring supervisor or designee of whether or not the candidate passed the check and may be offered a position. While the candidate can contact HR to disclose any past or pending violations, the hiring supervisor or designee may **not** solicit this information from the applicant nor follow up on any information volunteered by the candidate.

C. Out-of-State and Fiduciary Background Checks

Candidates who list an address outside of Wisconsin will be subject to an out-of-state background check. Additionally, candidates for positions with significant fiduciary responsibilities will be subject to a third-party background check that includes consumer credit information, in adherence with the FCRA.

D. Offering a Position

Criminal background checks must be conducted prior to the hiring supervisor or designee making an offer of employment. Offers of employment or implied offers of employment cannot be provided to a candidate until Human Resources notifies the hiring supervisor or designee that an offer may be made. If exceptional circumstances require an offer to be made prior to completion of a background check, the offer must be made in writing indicating the following: "This offer is made contingent on successful completion of a criminal background check." Under no circumstances may a candidate begin working for WSFP without successfully completing a background check.

E. Timeframe

Hiring supervisors should allow ample time to staff positions and place new employees. Therefore, completed Applicant Disclosure Forms should be submitted to Human Resources as soon as possible and no later than five (5) days prior to the date you'd like to offer employment (which will be far in advance of the first date the employee is actually needed). These timeframes may be reduced to accommodate unforeseen circumstances that require a very short turnaround (e.g. State Fair Only recruitment period).

F. Current and Former Employees, Volunteers and Contractors

Current employees who have a completed background check on file and are either currently active or worked in the prior calendar year will not be required to have an additional background check completed if the employee is transferring to a position with identical job duties and responsibilities within the same department. In addition, employees may be subject to periodic background checks in accordance with this policy, or if WSFP receives information on a pending charge or conviction from a credible source.

Current employees who are being considered either for another position within their current department with different job duties from their current position or for a position within a *separate* department are considered candidates as outlined in Section VII.B. Therefore, a background check must be completed prior to offering a current employee this position. In addition, any current Limited Term Employee being considered for a Permanent position with WSFP will be subject to a background check prior to offer.

Returning employees who are still active in the Human Resources Information System (HRIS) and worked the prior calendar year will not be subject to a background check if returning to the same position but are required to disclose to Human Resources any pending charges or convictions that occurred during the layoff period. An employee who wishes to return to a different position within the *same department* will be subject to a background check prior to an offer for that different position. An employee who wishes to work in a different department altogether is considered a candidate per Section VII.B.

Former employees who worked in past years, but *not* in the preceding calendar year, are considered candidates per Section VII.B and subject to a background check prior to an offer of employment.

Volunteers and Contractors who may be considered for assignment on WSFP premises will be subject to a background check prior to being allowed to provide services and must complete the Applicant Disclosure Form. Hiring supervisors or designees should follow the process outlined in Section VII.B.

VIII. **STAFF SELF-REPORTING REQUIREMENTS**

A current employee (including those employees who are currently laid off from working but are still active in the HRIS) must notify the WSFP Human Resources Department by the following business day if he/she: 1) is charged, convicted, or sentenced for a felony or misdemeanor offense; 2) is being investigated by any governmental agency for any act or offense; 3) is the subject of an injunction or restraining order; or 4) receives a municipal ordinance citation that may be substantially related to the job. Failure to notify HR may result in disciplinary action, up to and including termination. Upon notification by a current employee, HR may conduct a background check and will make a "fitness for duty" determination.

IX. **REFERENCES**

Wisconsin Statutes [111.322](#), [230.17\(3\)](#), and [941.29](#); Wisconsin Human Resources Handbook [Chapter 246](#)



WISCONSIN STATE FAIR PARK CONFIDENTIALITY AGREEMENT

(For employees with access to background check information)

INSTRUCTIONS: This form is required to be completed by any employee who has access to confidential background check information and will be secured within the Human Resources Department.

EMPLOYEE INFORMATION	
NAME – Last, First, Middle	POSITION TITLE
DEPARTMENT	

SAMPLE

Certification: By my signature below, I understand that in the course of conducting a criminal background check, I may have access to information including, but not limited to, the results obtained from the criminal background check.

I understand that the information listed above, as well as other information to which I have access, is special or confidential information that could either improve or injure the prospects or chances of persons in the recruitment process. I agree to keep this information confidential and not to copy the materials, discuss them with anyone not specifically authorized by the Human Resources Department or allow any unauthorized person access to them. Failure to keep the information confidential may constitute insubordination and/or may result in a violation of a work rule, both of which could lead to discipline, up to and including termination.

By signing below, I acknowledge that failure to adhere to the requirements set forth in this statement would be a violation both of the public trust and as a condition of my continued employment with the State of Wisconsin.

<u>SIGNATURE</u>	<u>DATE SIGNED</u>
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WISCONSIN STATE FAIR PARK CRIMINAL BACKGROUND APPLICANT DISCLOSURE

INSTRUCTIONS: This form must be completed by any candidate aged 18 years & older being considered for employment, internship, volunteer work or contracted services with Wisconsin State Fair Park (WSFP). Provision of Sex, Race and Social Security Number is not required but may impact whether a thorough background check may be completed and thus, employment offered or denied. Failure to complete this form will remove you from consideration for the position.

The Wisconsin Fair Employment Act prohibits employment discrimination based on arrest and conviction records or pending charges. However, it is not discrimination to not offer employment to an individual if that individual's pending charge(s) or conviction(s) are substantially related to the job.

POSITION INFORMATION – COMPLETED BY <u>HIRING SUPERVISOR</u>	
POSITION TYPE <input type="checkbox"/> Employee (Permanent or LTE) <input type="checkbox"/> Unpaid Intern <input type="checkbox"/> Volunteer <input type="checkbox"/> Contractor	
POSITION APPLIED FOR	WSFP DEPARTMENT (Admissions, Grounds, Public Safety, etc.)
HIRING SUPERVISOR/LEAD WORKER	LOCATION OF WORK (Expo, WPP, Barns, Bus Ofc, Grandstand, etc.)

APPLICANT INFORMATION – PLEASE PRINT <u>LEGIBLY</u> AS ILLEGIBLE FORMS MAY NOT BE PROCESSED OR MAY BE DELAYED			
<input type="checkbox"/> CHECK HERE IF YOU ARE A <u>CURRENT</u> EMPLOYEE OF WISCONSIN STATE FAIR PARK			
LEGAL NAME – Last, First, Middle (Please Print)		MAIDEN/ALIAS/FORMER NAMES (Please Print)	
SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	RACE <input type="checkbox"/> 1. Black (not Hispanic) <input type="checkbox"/> 2. Asian or Pacific Islander <input type="checkbox"/> 3. American Indian or Alaskan Native	<input type="checkbox"/> 4. Hispanic <input type="checkbox"/> 5. White (not Hispanic)	DATE OF BIRTH* *NOTE: Background checks are <u>not</u> conducted on minors under 18 years old & this form should not be completed
STREET ADDRESS (NO PO BOXES)		CITY	STATE ZIP CODE

RESIDENCE INFORMATION				
List <u>all</u> residences where you've lived in the prior five (5) years, not including above, with most recent first. Attach pages if needed.				
BEGIN DATE	END DATE	STREET ADDRESS (NO PO BOXES)	CITY	STATE

DISCLOSURE INFORMATION: If you would like to disclose any information regarding your criminal background, including past or pending criminal violations, that you feel may impact your eligibility for employment, please contact Human Resources at HR@wistatefair.com or 414.266.7016 to complete a *Criminal Background Violation Disclosure Form*.

Certification: I certify that the above information is true and accurate to the best of my knowledge and that any falsification or omission of information may disqualify me from consideration. I authorize WSFP to conduct a background check and verify the information provided above. I understand that this form may be used as authorization for any subsequent background checks required and that it is my responsibility to inform Human Resources within one (1) business day if anything in my background changes.

<u>SIGNATURE</u>	<u>DATE SIGNED</u>
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WISCONSIN STATE FAIR PARK
FCRA AUTHORIZATION FORM
Consent to Procurement of Consumer Credit Report

INSTRUCTIONS: This form is required to be completed, in addition to the *Criminal Background Applicant Disclosure*, by any candidate being considered for employment, internship, volunteer work or contracted services with Wisconsin State Fair Park (WSFP) in a position that requires significant fiduciary responsibility as determined by Human Resources.

EMPLOYEE INFORMATION		
LEGAL NAME – Last, First, Middle (Please Print)	POSITION APPLIED FOR	
OTHER NAMES USED (Please Print)	SOCIAL SECURITY NUMBER	DATE OF BIRTH
STREET ADDRESS (NO PO BOXES) Address _____ State _____ Zip Code _____		

SAMPLE

Certification: I understand that, as a condition of my consideration for employment with Wisconsin State Fair Park (WSFP), or as a condition of my continued employment with WSFP, WSFP may obtain a consumer report that includes, but is not limited to, my creditworthiness or similar characteristics, employment and education verifications, social security verification, criminal and civil history, personal interviews, DMV records, any other public records and any other information bearing on my credit standing, credit capacity, character, general reputation, personal characteristics and trustworthiness.

I hereby authorize and consent to WSFP's procurement of such a report. I understand that, pursuant to the federal Fair Credit Reporting Act (FCRA), WSFP will provide me with a copy of any such report if the information contained in such report is, in any way, to be used in making a decision regarding my fitness for employment with WSFP. I further understand that such report will be made available to me prior to any such decision being made, along with the name and address of the reporting agency that produced the report.

<u>SIGNATURE</u>	<u>DATE SIGNED</u>