

1. Title

Criminal Background Checks for Employment

2. Policy

Sec. 1 Purpose. The University of Texas System is committed to promoting a safe and secure environment at all of its institutions. To that end, this policy sets forth requirements for criminal background checks in employment decisions.

The University of Texas System Administration (U. T. System) and each University of Texas System institution (U. T. institution) shall adopt and include in its *Handbook of Operating Procedures* (HOP) a policy and related procedures for the administration of criminal background checks.

Sec. 2 Criminal Background Check Required. U. T. System and U. T. institutions must obtain criminal background checks,¹ at a minimum, on:

2.1 Applicants for Employment. A background check must be conducted on any applicant, internal or external, who is under final consideration, following normal screening and selection processes, for a regular (i.e. not temporary) full-time or part-time position of employment with the U. T. System or a U. T. institution.

The institution must receive an authorization form signed by the applicant before the institution requests the check. The format of the authorization form must be specified in the institution's HOP and must conform to applicable state and federal law. (See Part 5, below, for sample form.)

Any or all of the following background check sources may be used, as appropriate, on applicants for employment:²

- (a) The TX DPS Crime Records Service – Secure Site.
- (b) A private vendor that offers national criminal background check services.
- (c) Other state, national, and international sites.

¹ This policy and procedure addresses criminal background checks only and does not limit the University's authority to conduct other background checks as permitted by law.

² Note: Use of these sites may require additional notice and other prerequisites. Institutions must consult with legal counsel before using.

- 2.2 Current Employees. A background check must be conducted on:
- (a) a current employee who is under consideration for a promotion that requires a criminal background check based on the institution policy in its HOP;
 - (b) a current regular (i.e., not temporary) employee if the institution has not previously obtained a criminal background check on the employee³; and
 - (c) a current employee when the President, or his/her designee, determines it is necessary to further the goals of the institution.

Any or all of the following background check sources may be used, as appropriate, on current employees:

- (a) The TX DPS Crime Records Service – Public Site.
 - (b) Other public state, national, and international sites.
 - (c) A private vendor.⁴
- 2.3 Statutorily Required Criminal Background Check. Where state or federal law requires that a position be subject to a criminal background check using a specific source of criminal background check information and/or certain procedures, the University of Texas System and its institutions will comply with such laws. To the extent such laws impose criminal background checks that are more extensive or substantially similar, the U. T. System and U. T. institutions may rely on compliance with the statute to satisfy the requirements of this policy.

Sec. 3 No Automatic Disqualification for Criminal Background. An individual with a criminal record will not automatically be disqualified from employment or promotion. U. T. System and U. T. institution policies and procedures will require that a case-by-case analysis be conducted.

³ Institutions are expected to complete criminal background checks on current employees who have not been previously checked by August 31, 2011.

⁴ See Sec. 6, below.

- Sec. 4 Notice Requirement. An institution receiving a report indicating that an applicant or a current employee has a criminal record will notify the individual that such a report has been received, provide the individual with a copy of the report, and notify the individual of the right to challenge the accuracy and completeness of the report and to submit additional information relating to the criminal record and why it should not affect an employment decision.
- Sec. 5 Opportunity to Respond to Adverse Action.
- 5.1 External Applicants for Employment. The decision of the institution is final and may not be appealed.
- 5.2 Current Employees. If the individual is a current employee subject to a criminal background check, standard employee grievance procedures are available to challenge the decision. If the criminal record leads to termination, the applicable employee discipline and discharge procedures will be used.
- Sec. 6 Use of Private Vendors. If an institution elects to use a third-party vendor credit reporting agency to conduct criminal record checks, the resulting report is considered a "consumer report" under the Fair Credit Reporting Act (FCRA) and the institution must comply with all FCRA disclosure and notice requirements.
- Sec. 7 Self Reporting.
- 7.1 External Applicants for Employment. Applicants must report in writing any charges or convictions, excluding misdemeanor offenses punishable only by fine, occurring after the date of application.
- 7.2 Current Employees. U. T. institution employees must report to their supervisor in writing, within five business days, any criminal convictions, excluding misdemeanor offenses punishable only by fine. Subject to standard grievance and disciplinary procedures as applicable, failure to do so is a violation of policy and may lead to disciplinary action as appropriate.
- Sec. 8 Criminal Background Check Records. Criminal background check records shall be handled and retained in accord with applicable state and federal laws.

3. Definitions

None

4. Relevant Federal and State Statutes

Texas Education Code § [51.215](#) – Access to Police Records of Employment Applicants

Texas Government Code § [411.081](#) et seq. – Criminal History Clearinghouse

Texas Government Code § [411.094](#) – Access to Criminal History Record Information: Institution of Higher Education

Texas Government Code § [411.135](#) – Access to Certain Information by Public

[Fair Credit Reporting Act](#), 15 U.S.C. § 1681 et seq.

5. Relevant System Policies, Procedures, and Forms

Sample [Criminal Background Check Form](#)

6. Who Should Know

Applicants
Employees

7. System Administration Office(s) Responsible for Policy

Office for Business Affairs
Office of General Counsel

8. Dates Approved or Amended

November 26, 2002
Amended August 31, 2010

9. Contact Information

Questions or comments about this policy should be directed to:

- bor@utsystem.edu