



UT System Administration Policy Library -- Policy INT109
**Criminal Background Checks for Security
Sensitive Positions**

Responsible Officer: Associate Vice Chancellor for Employee Benefits and Services

Sponsoring Office: Office of Employee Services

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POLICY STATEMENT

It is the policy of The University of Texas System Administration to obtain criminal history record information on any finalist considered for appointment to a security sensitive position, unless that person is a current employee of UT System Administration and was subject to a criminal background check at the time of their most recent hiring or at any time since.

RATIONALE

The purpose of this policy and procedures memorandum is to provide requirements and guidelines for conducting criminal background checks with respect to the filling of security sensitive positions at System Administration. This policy is intended to promote the safety and security of personnel and System Administration property consistent with the requirements of the law and prudent financial and programmatic practices.

SCOPE

All offices of UT System Administration

WEBSITE ADDRESS FOR THIS POLICY

<http://www.utsystem.edu/policy/policies/int109.html>

RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS

UT System Administration Policies & Standards	Other Statutes, Policies & Standards
<ul style="list-style-type: none"> • <u>UTS124, Criminal Background Checks for Security Sensitive Positions</u> 	<ul style="list-style-type: none"> • <u>Texas Education Code § 51.215</u>. Access to Police Records of Employment Applicants • <u>Texas Government Code § 411.085</u>. Unauthorized Obtaining, Use, or Disclosure of Criminal History Record Information; Penalty • <u>Texas Government Code § 411.085</u>. Unauthorized Obtaining, Use, or Disclosure of Criminal History Record Information; Penalty • <u>Texas Government Code § 411.094</u>. Access to Criminal History Record Information: Institution of Higher Education • <u>Texas Government Code § 411.135</u>. Access to Certain Information by Public

CONTACTS

If you have any questions about UT System Administration Policy INT 109, *Criminal Background Checks for Security Sensitive Positions*, contact the following offices:

Subject	Office Name	Telephone Number	Email/URL
Human Resources/ Employee Benefits	Office of Employee Services	512-499-4587	<u>esc@utsystem.edu</u>

DEFINITIONS

Applicant

An individual who applies for a position vacancy within UT System Administration, whether the individual is an outside candidate or a current employee. Current employees who are in positions designated as security sensitive and on whom UT System Administration previously obtained criminal history record information are not subject to another criminal background check when applying for a new position.

Criminal Conviction Record Information

Public information maintained by the Department of Public Safety, as provided in Texas Government Code § 411.135, or another criminal justice agency, related to convictions for criminal conduct.

Criminal History Record Information

Information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, as more fully described in Texas Government Code § 411.082

RESPONSIBILITIES

Hiring Official

- Directs the applicant to complete, sign and deliver the Criminal Background Check form to OES.
- Obtains the recommendation regarding the results of a criminal background check from ODOP and OES prior to making an employment offer.

Office of Employee Services (OES)

- Sends the completed Criminal Background Check form and, if applicable, a copy of the finalist's employment application to ODOP.

Office of the Director of Police (ODOP)

- Obtains and reviews the criminal background information and notifies the appropriate OES representative of the results of the investigation.
- Destroys all criminal background information obtained about the individual after the expiration of the probationary term of the individual's employment.

PROCEDURES

1.1 Job Descriptions, Advertisements, and Postings

Job advertisements and postings for System Administration security sensitive positions will include the following statement:

“This position is security sensitive and subject to *Texas Education Code* § 51.215, which authorizes the employer to obtain criminal history record information.”

1.2 Criminal Background Investigation

1.2.1 Criminal history record information may be used only for the purpose of evaluating applicants for employment in security sensitive positions and shall in no way be used to discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, age or disability.

1.3 Criminal Background Investigation Process

1.3.1 A criminal background check will not be performed until the Office of Employee Services (OES) receives and forwards to the Office of the Director of Police (ODOP) a completed, signed Criminal Background Check Form (see [Forms](#)).

The hiring official is responsible for directing the individual to complete, sign and deliver the form to OES. As authorized by *Texas Education Code* § 51.215, an applicant who fails to complete, sign and submit the form will be removed from further consideration for the position.

1.3.2 OES will send the completed Criminal Background Check Form and, if applicable, a copy of the finalist’s employment application to ODOP.

1.3.3 The criminal history or criminal conviction investigation should include states where the applicant has resided and/or been employed during the period of no less than seven years immediately preceding the date the individual signed the Criminal Background Check Form.

1.3.4 ODOP will promptly obtain and review the criminal background information and will notify the hiring official and the appropriate OES representative of the results of the investigation.

1.3.5 ODOP will conduct the criminal history or criminal conviction record investigation before the hiring official makes the employment decision.

However, if circumstances require that an offer of employment be made before the completion of the criminal history or conviction investigation, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation.

1.3.6 If in the opinion of ODOP the results of a criminal background investigation indicate that an individual may be unacceptable for the position being filled, the Director of Police will advise OES. If OES agrees that the individual may be unacceptable for the position being filled, OES will advise the hiring official.

1.3.7 If either OES or ODOP advises the hiring official that the results of the criminal background check indicate that the individual may be unacceptable for the position being filled, then the hiring official may not extend an offer to the individual without the prior written approval of the Chancellor, the applicable Executive Vice Chancellor, the General Counsel to the Board of Regents, if applicable, or to their respective designees.

1.3.8 After ODOP has notified OES of the results of the investigation, such action will be noted on the Criminal Background Check Form and the form will be returned, without notes regarding the results of the investigation, to OES for inclusion in the individual's file.

1.3.9 Criminal history record information will be regarded as confidential as required by law and will **not** be made a part of the applicant's file or the employee's personnel file nor will it be communicated to any unauthorized person. Under *Texas Government Code* § 411.085, the unauthorized release of criminal history record information is a *criminal offense* and, consequently, UT System Administration officials should seek legal advice with respect to any requested release of such information.

1.3.10 After the expiration of the probationary term of the individual's employment, the Director of Police shall destroy all criminal background information obtained about the individual. If the position is one that does not have a probationary period, then the Director of Police shall destroy the information 180 days after ODOP obtained it.

1.3.11 Criminal convictions will not automatically disqualify individuals from employment. In the event the investigation reveals a criminal conviction or other relevant information, the hiring official will determine on a case-by-case basis whether the individual is acceptable based on appropriate factors including:

a. Specific duties of the position to be filled

b. Number of offenses

- c. Nature of each offense
- d. Length of time between the offense and the employment decision
- e. Employment history
- f. Efforts at rehabilitation
- g. Accuracy of the information that the individual provided on the employment application.

FORMS AND TOOLS/ ONLINE PROCESSES

[Criminal Background Check Form](#)

APPENDIX

Approved October 2, 2003, by Vice Chancellor for Administration, Tonya Moten Brown, and on October 24, 2003, by Vice Chancellor and General Counsel, Cullen M. Godfrey, as a complete replacement of *Policy and Procedures Memorandum* 1.015 dated July 26, 2002.

Keywords: criminal record, security, criminal, background checks, background check, criminal records, HR, human resources
