



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Recruitment and Employment

Number: 02.01.03

SUBJECT: Background Check Policy

I. PURPOSE AND SCOPE

The purpose of this policy and procedure is to outline the requirements and guidelines for conducting of criminal background checks at Texas Southern University (TSU). This policy outlines Texas Southern University's guidelines governing all positions as security sensitive in accordance with [Section 51.215](#) of the Texas Education Code and the process for hiring into a position. This policy applies to all positions, full and part-time, permanent and temporary, including volunteers, in all university programs, regardless of funding source. The policy and procedure apply to both internal and external candidates for these positions.

II. DEFINITIONS

- A. Applicant: An individual who applies for an open position with TSU, whether the individual is an outside candidate or a current employee of TSU. This could also include an individual involved in a reclassification action. All volunteers are subject to this policy. Contractors may be required to complete a background check if deemed appropriate by the CHRO or designee.
- B. Controlled Substance: This term is defined in accordance with the Texas Health & Safety Code, Section 481.002, as that section may be amended from time to time.
- C. Criminal Conviction Record Information: Public information by the Department of Public Safety, as provided in Texas Government Code, Section 411.135.
- D. 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 the Texas Government Code, Section 411.082.
- E. Hiring Official: Appointed by the Vice President of the department or designee and charged with the responsibility to ensure criminal background checks are

performed when required and the results reviewed before job offers or other personnel decisions are made or executed.

- F. Position: Both full-time and part-time positions, in all university programs, regardless of the funding source, whether the position is filled or to be filled by a regular or a temporary worker, but not including a position filled by a temporary worker provided by a temporary employment agency; the employment agency should be expected to conduct and be held responsible for conducting the criminal background check.

III. POLICY PROVISIONS

- A. In an effort to provide and maintain the safest possible environment for students, visitors, faculty, and staff, and enhance the security of physical resources, TSU shall, consistent with the requirements of the law and prudent practices, conduct criminal background investigations and obtain criminal history record information on applicants, graduate assistants and current employees. A background investigation may be conducted on any current employee as deemed appropriate by the Associate Vice President of Human Resources/ CHRO or designee.
- B. It is the policy of TSU to obtain:
1. Criminal history record information, including conviction information contained therein, on applicants who are under final consideration, following normal screening and selection processes, for all positions.
 2. Criminal history record information, including conviction contained therein, on a current employee who is under consideration for a transfer, promotion or reclassification.
 3. Criminal history record information, including convictions contained therein, on current employees.
 4. Criminal history record information, including convictions contained therein, on current employees based on an annual or ad hoc criminal background investigation.
- C. Exemptions: The following personnel actions are exempt from the requirements of Section III B.2 and B.3 above:
- i. Position reclassifications that result in a title change with no change in current responsibilities;

- ii. Career progression promotion occurring within the current department (e.g., associate professor to full professor or administrative assistant I to administrative assistant II); and
- iii. Involuntary transfers or reclassifications.

D. Optional Background Checks

The President, CHRO or their designee may request a criminal background check (criminal conviction record) on a current employee if deemed appropriate. Management will prepare, in writing, a business case that substantiates the need to conduct the investigation and submit it to the President, CHRO or designee who will approve the request for a criminal background check (criminal conviction record). Once approved, Human Resources (HR) will coordinate with the TSU Police or designated outside vendor to request that the investigation be completed. If the current employee refuses to complete, sign and submit the Criminal Background Check Form in response to a request made in accordance with this policy, management may take appropriate action.

IV. PROCEDURES

- A. The department hiring official is responsible for notifying applicants during the interview process or the current employee that the position subject to a criminal history record investigation, including criminal convictions contained therein. The department hiring official is responsible for obtaining a signed authorization form for those persons requiring a criminal background check before requesting the investigation. The authorization form is linked to this policy and includes the notice required by Texas Government Code 559.003, as it may be amended from time to time. Individuals refusing to sign the authorization are eliminated from further consideration for employment.
- B. The Department of Human Resources is responsible for coordinating the process of conducting criminal background investigations. This investigation process shall be conducted by either the TSU Police or and outside vendor as deemed appropriate by the Chief Human Resources Officer or designee. The Department of Human Resources is responsible for communicating the results of the background check to the hiring official. All data obtained in the criminal history record investigation, including criminal convictions contained therein, will be privileged and confidential.
- C. The Department of Human Resources will report that the applicant or current employee has “no criminal history” or has a “positive criminal history” and will provide information as to the nature of any positive criminal history, including criminal convictions contained therein.

- D. The Department of Human Resources will evaluate any positive criminal history, including criminal convictions contained therein, against job-related criteria. Applicants with a criminal history will not be automatically disqualified from employment, and an employee's criminal history will not result in automatic disciplinary action or dismissal. After review, the Office of Human Resources will make a recommendation as to whether the person is "employable" or "not recommended for employment." An applicant with no criminal history will be recommended as "employable."
- E. If the applicant or current employee is "not recommended for employment," the Department of Human Resources will issue a report to the department hiring official, who may accept the recommendation and reject the employment of the person, or may request permission to hire. A request for permission to hire will be submitted to the President. Only the President, or designee, can authorize hiring of someone with a positive criminal history. The President, or designee, will notify the Department of Human Resources and the designated hiring official of the hiring decision. The designated hiring official will either proceed to finalize the hiring process, or in the case of a decision not to hire, will notify the conditional employee of the decision and select another applicant. In the latter case, the conditional employee will be terminated immediately.
- F. The department hiring official, or designee, makes the decision to offer employment to an applicant or to promote, transfer or reclassify an employee, after a criminal background check has been conducted and results reviewed against any job related criteria.
- G. If circumstances require that an offer or decision be made before the completion of the investigation, the offer must be in writing from the designated hiring official and state that the offer is contingent on the completion of a satisfactory criminal background investigation.
- H. The department hiring official may not conduct any part of the investigation, nor talk with the candidate about the specific findings of the criminal history record investigation, including criminal convictions contained therein.
- I. A department hiring official or employee of TSU may be subject to disciplinary action, up to and including termination, for any breach of confidentiality regarding information obtained from a criminal history investigation.
- J. The criminal history record information, including convictions contained therein, obtained by TSU may be used only for the purpose of evaluating applicants for employment, reclassification and in managing business risks. This policy does not automatically exclude from consideration for employment all individuals with criminal convictions. TSU shall in no way use that information to discriminate on the basis of race, color, national origin, religion, sex, disability or age.

- K. In situations where criminal history record information is found for an applicant or an employee, the following factors must be considered to determine whether an applicant is eligible for potential or continued employment or whether to discipline or dismiss and employee.
- i. The nature and gravity of the offense(s);
 - ii. The time that has passed since the conviction and/or completion of the sentence;
 - iii. The nature of the job sought or held; and
 - iv. The legitimate interest of protecting the safety and welfare of employees and the general public, preserving state property and students, upholding the reputation and integrity of the University.
- L. Any applicant who has criminal history record information indicating a conviction for an offense listed in this subsection may be hired only after approval by the President or designee. A conviction for any of the following offense requires such approvals:
- i. a felony, as defined by state or federal law, or equivalent offenses under the law of another jurisdiction; or
 - ii. any offenses requiring registration as a sex offender.
- M. Criminal history record information, including conviction information contained therein, 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 or communicated to any unauthorized person except as provided in this policy or procedure or by law. Under Texas Government Code, Section 411.085, the unauthorized release of criminal history record information is a criminal offense and, consequently, the institution should seek legal advice with respect to any requested release of such information.
- N. All criminal history record information will be retained/ destroyed in accordance with University record retention policies and state mandates.

VI. AUTHORITY

The statutory authority for this policy and procedure is provided by:

- A. Texas Education Code, Section 51.215, Access to Police Records of Employment Applicants
- B. Texas Government Code, Section 411.094, access to Criminal History Record Information: Institution of Higher Education

- C. Texas Government Code, Section 411.135, Access to Certain Information by Public

Questions regarding the Criminal Background Investigations should be directed to the Human Resources Department at 713-313-7521.

VII. REVIEW AND RESPONSIBILITY

Responsible Party: Associate Vice President of Human Resources/ CHRO

Review: Every five years, on or before September 1

VIII. APPROVAL

Edward C. Ness
Vice President for Administration and Finance

John M. Rudley
President

Effective Date March 2016