

33.99.14.C1 Criminal Background Checks

Approved: February 27, 2009
Revised: June 15, 2015
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Rule Statement

Criminal background checks must be performed on all new employees and may be performed on current employees.

Reason for Rule

This rule provides guidance for performing and analyzing criminal background information. Criminal history records shall not be used to discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, genetic information, or veteran protected status.

Procedures and Responsibilities

1. GENERAL

- 1.1. This rule supplements System Regulation *33.99.14, Criminal History Record Information – Employees and Applicants*. In an effort to provide a safe environment for students, visitors, faculty, and staff and enhance the security of physical resources, Texas A&M University-Corpus Christi shall conduct criminal background checks on applicants selected for hire and on current employees.
- 1.2. The president has determined that all positions, including student, adjunct, part-time, and temporary positions at the university fall under the category of security-sensitive positions, as defined in System Regulation *33.99.14, Criminal History Record Information – Employees and Applicants*.
- 1.3. Additional information regarding the ongoing criminal background check process for employees involved in youth initiatives can be found in University Rule *24.01.06.C1, Youth Initiatives*.
- 1.4. Vacancy announcements, advertisements for positions, and employee job descriptions will identify the security-sensitive nature of the positions. Applicants will be informed that employment requires an acceptable background investigation.

- 1.5. Every applicant for university employment and current employee will have, as permitted by law, the opportunity to request, receive, review, and correct information about that applicant or employee collected by or on behalf of the university.

2. CRIMINAL HISTORY BACKGROUND CHECKS

- 2.1. If circumstances require that an offer or decision be made before the completion of the investigation, the offer must state that employment is contingent on the completion of an acceptable criminal background investigation.
- 2.2. Human Resources will obtain an authorization form from final candidates and new employees who have been extended a conditional offer of employment. Individuals refusing to sign the authorization form for the background investigation will not be eligible for employment. The criminal background authorization form can be found on the Human Resources website.
- 2.3. Any applicant who has a criminal history record indicating a conviction, may be hired only after the Human Resources office has conducted the analysis found in section 6 of this rule and it is determined that the criminal history does not affect the individual's eligibility for employment.
- 2.4. The approval of the president/CEO is required to employ an individual who has a conviction for:
 - 2.4.1. A felony, as defined by state or federal law, or equivalent offenses under the law of another jurisdiction; or
 - 2.4.2. Any offense requiring registration as a sex offender.
- 2.5. An applicant for university employment is required to promptly report any arrest, criminal charge, or conviction occurring after his or her application is submitted. This reporting obligation for applicants exists until the individual: (a) receives notice that he or she will not be hired; or (b) is hired and first reports to work.

3. CRIMINAL HISTORY RECORDS

- 3.1. 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.
- 3.2. All criminal history record information obtained about an individual shall be destroyed as soon as practicable in accordance with System Regulation 33.99.14, *Criminal History Record Information – Employees and Applicants*: for applicants, after the position has been filled and the individual reports to his/her first day of work; for employees, after the criminal history record information has been analyzed and any resulting action taken under this rule. Note, however, that Human Resources shall maintain completed background check authorization/consent forms as provided in the university records retention schedule.

4. FALSIFICATION OR FAILURE TO DISCLOSE CRIMINAL HISTORY

Falsification or failure to disclose criminal activity at any point during the application process or period of employment will be addressed as outlined in section 4 of System Regulation 33.99.14, *Criminal History Record Information – Employees and Applicants*.

5. POST-EMPLOYMENT CRIMINAL HISTORY BACKGROUND CHECKS

5.1. Employees are Subject to Periodic Checks

5.1.1. Employee's criminal history record information is subject to review at any time as permitted by law. Periodic criminal history information record checks shall be conducted at the discretion of the university with approval of the president. The president has delegated this authority to the vice presidents for units not reporting directly to the president.

5.1.2. Criminal background information may also be required for an employee who is under consideration for a transfer, demotion, or promotion.

5.2. Current employees must report to their supervisor, within twenty four (24) hours or at the earliest possible opportunity thereafter, any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine. Failure to make the report required by this section shall constitute grounds for disciplinary action, including dismissal.

6. ANALYSIS OF CRIMINAL HISTORY RECORD INFORMATION AND SUBSEQUENT ACTION

6.1. Upon finding criminal history record information indicating a conviction, criminal charge, or an arrest, the Human Resources office and the University Police Department shall conduct the analysis found in section 6 of System Regulation 33.99.14, *Criminal History Record Information – Employees and Applicants*.

6.2. To ensure compliance with EEOC standards and policy guidance, applicants with a criminal history will not be automatically disqualified from university employment, and a university employee's criminal history will not result in automatic disciplinary action or dismissal. The analysis found in section 6 of this rule shall be used to determine whether an individual's criminal history will affect the individual's potential or continued university employment.

6.3. If, after completing the analysis with respect to a conviction, Human Resources and the University Police Department reasonably conclude the applicant's or employee's criminal conduct evidences he or she is unsuitable for the position in question, Human Resources may recommend that the department/unit reject the applicant or dismiss the employee. If the department/unit disagrees with the conclusion of Human Resources and wishes to employ or continue the employment of the individual, the department/unit must receive approval from the president/CEO or designee. With the exception of convictions listed in section 2.4

of this rule, the president has delegated this authority to the vice presidents for units not reporting directly to the president.

- 6.4. If, after completing the analysis with respect to a criminal charge or arrest, Human Resources concludes that the applicant's or employee's misconduct evidences the person is unsuitable for the position in question or should be disciplined, Human Resources may recommend that the department/unit reject the applicant or discipline or dismiss the employee. If the department/unit disagrees with the conclusion of Human Resources and wishes to employ, continue the employment of, or not discipline the individual, the department/unit must receive approval from the president/CEO or designee. The president has delegated this authority to the vice presidents for units not reporting directly to the president.

7. APPEALS

- 7.1. An external applicant rejected for university employment under this rule has no appeal unless the individual alleges unlawful discrimination, sexual harassment, and/or retaliation. Such appeals must be filed in accordance with University Rule *08.01.01.C1, Civil Rights Compliance*.
- 7.2. Faculty employees may appeal action taken under this rule by following the applicable provisions of University Procedure *32.01.01.C0.01, Complaint and Appeal Process for Faculty Members* or University Rule *08.01.01.C1, Civil Rights Compliance*.
- 7.3. Non-faculty employees may appeal action taken under this rule by following the applicable provisions of University Procedure *32.01.02.C0.01, Complaint and Appeal Process for Non-faculty Employees* or University Rule *08.01.01.C1, Civil Rights Compliance*.
- 7.4. The president has delegated authority to review and approve appeal investigation findings to the vice presidents for units not reporting directly to the president.

Related Statutes, Policies or Requirements

[Tex. Gov't Code Ch. 411, Subchapter F](#)

[Tex. Educ. Code §51.215](#)

[Tex. Gov't Code Ch. 559](#)

[Fair Credit Reporting Act, as amended, 15 U.S.C. §§ 1681 – 1681u](#)

System Policy [12.01, Academic Freedom, Responsibility and Tenure](#)

System Policy [32.02, Discipline and Dismissal of Employees](#)

System Regulation [08.01.01, Civil Rights Compliance](#)

System Regulation [32.01.01, Complaint and Appeal Procedures for Faculty Members](#)

System Regulation [32.01.02, Complaint and Appeal Process for Nonfaculty Employees](#)

System Regulation [33.99.14, Criminal History Record Information - Employees and Applicants](#)

University Rule [08.01.01.C1, Civil Rights Compliance](#)

University Rule [24.01.06.C1, Youth Initiatives](#)

University Rule [32.01.01.C0.01, Complaint and Appeal Process for Faculty Member](#)
University Rule [32.01.02.C0.01, Complaint and Appeal Process for Non-faculty Employees](#)

Contact Office

Contact for clarification and interpretation: Human Resources
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