

**THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN**  
**OFFICE OF HUMAN RESOURCES**  
***POLICY AND PROCEDURES MEMORANDUM***

**CRIMINAL BACKGROUND CHECK FOR SECURITY SENSITIVE POSITIONS**

**DATE:** November 25, 2003

**1. PURPOSE**

The purpose of this policy and procedures memorandum is to provide for the administration of criminal background checks.

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

**2. POLICY**

It is the policy of The University of Texas of the Permian Basin to obtain:

- 2.1** Criminal history record information on applicants who are finalists for a position designated as security sensitive; and
- 2.2** Criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from a non-security sensitive position to a position designated as security sensitive; provided, however, that no criminal conviction record information is required for reclassifications that result in a title change with no change in current responsibilities, career progression promotions occurring within the current department, or involuntary promotions and reclassifications; and
- 2.3** Criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from one security sensitive position to another security sensitive position and for whom The University of Texas of the Permian Basin has not previously obtained either criminal history record information or criminal conviction record information; provided, however, that no criminal conviction record information is required for reclassifications that result in a title change with no change in current responsibilities, career progression promotions occurring within a department, or involuntary promotions and reclassifications.

**3. PROCEDURES**

**3.1 Job Advertisements and Postings**

Job advertisements and postings for The University of Texas of the Permian Basin will include the following statement:

“Specific job requirements or physical location of some positions allocated to this classification may render the position security sensitive, and thereby subject to the provisions of § 51.215 of the *Texas Education Code*, which authorizes the employer to obtain criminal history record information.”

### **3.2 Job Descriptions for Security Sensitive Positions**

Job descriptions for The University of Texas of the Permian Basin security sensitive positions will include the following statement:

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

### **3.3 Criminal Background Investigation Process**

- 3.3.1** 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, handicap, or age.
- 3.3.2** A criminal background check will not be performed until the Office of Human Resources (OHR) receives and forwards to the Office of the Chief of Police (OCOP) a completed, signed Criminal Background Check Form. The hiring official is responsible for directing the individual to complete, sign and deliver the form to OHR. 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.
- 3.3.3** OHR will send the completed Criminal Background Check Form and, if applicable, a copy of the finalist’s employment application to OCOP.
- 3.3.4** 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.
- 3.3.5** OCOP will promptly obtain and review the criminal background information and will notify the hiring official and the appropriate OHR representative of the results of the investigation.
- 3.3.6** 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.
- 3.3.7** If in the opinion of OCOP the results of a criminal background investigation indicate that an individual may be unacceptable for the position being filled,

the Chief of Police will advise the hiring official and OHR. If OHR agrees that the individual may be unacceptable for the position being filled, OHR will advise the hiring official.

- 3.3.8** If either OHR or OCOP 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 President.
- 3.3.9** After OCOP has notified the hiring official and OHR 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 OHR for inclusion in the individual's file.
- 3.3.10** 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, The University of Texas at the Permian Basin officials should seek legal advice with respect to any requested release of such information.
- 3.3.11** After the expiration of the probationary term of the individual's employment, the Chief 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 Chief of Police shall destroy the information 180 days after OCOP obtained it.
- 3.3.12** 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; and
  - g.** Accuracy of the information that the individual provided on the employment application.

### 3. DEFINITIONS

**Applicant:** An individual who applies for a position within The University of Texas of the Permian Basin, whether the individual is an outside candidate or a current employee. Current employees who are in positions designated as security sensitive and on whom 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.

**Position:** Both full-time and part-time positions, 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.

**Security Sensitive Positions:** Security sensitive positions are restricted to those positions described in *Texas Education Code* § 51.215(c) and *Texas Government Code* § 411.094(a)(2), as those sections may be amended from time to time. The Chancellor, or his or her designee, designates the positions or areas at System Administration that are security sensitive.

### 5. AUTHORITY

The authority for this Policy and Procedures Memorandum is provided by:

*Business Procedures Memorandum 29. Criminal Background Checks for Security Sensitive Positions*

*Texas Education Code* § 51.215. Access to Police Records of Employment Applicants

*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

### 6. APPLICABILITY

This policy and procedures memorandum is applicable to all positions designated as security sensitive for The University of Texas of the Permian Basin.