

Policies of the University of North Texas at Dallas	Chapter 05 Human Resources
5.027 Criminal History Background Checks	

Policy Statement

The University of North Texas at Dallas (UNT) is committed to protecting the welfare of its students, employees, institutional resources, and the public. To achieve this objective, the University will conduct criminal history background checks as detailed by this policy.

Application of Policy

All employees (including student employees), applicants who have received a job offer, and security-sensitive persons as defined by this policy. This policy does not apply to positions under the administrative direction and control of the University's chief law enforcement officer.

Definitions

1. Adverse Report. "Adverse Report" means any document or communication revealing Criminal History Information of an Applicant, other than a voluntary disclosure by the Applicant.
2. Applicant. "Applicant" means any individual who receives an offer of employment from the University, regardless of whether the individual is an outside candidate, current employee, or student.
3. Criminal History Information. "Criminal History Information" means any information—whether obtained through a voluntary disclosure, a criminal history background check, or other means—in which an individual is identified as having been: (i) convicted of a felony, Class A misdemeanor, or Class B misdemeanor offense; (ii) formally charged with a felony, Class A misdemeanor, or Class B misdemeanor offense; or (iii) a participant in a pretrial diversion program resulting in the termination or indeterminate suspension of the prosecution of a criminal charge.
4. Criminal History Record Information (CHRI). "CHRI" means 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 resolutions. CHRI does not include driving record information or identification information, to the extent the identification information does not indicate involvement of the person in the criminal justice system. CHRI is maintained in a restricted database that may be accessed or used only as authorized by Chapter 411 of the Texas Government Code and section 51.215 of the Texas Education Code. CHRI will only be used for the purpose of evaluating applicants for positions that handle currency, have access to a

computer terminal, have access to a master key, or work in an area of the University designated as a security-sensitive area.

5. Disposition. “Disposition” means a conviction or plea of guilty or no contest to a felony, Class A misdemeanor, or Class B misdemeanor offense, regardless of whether a sentence is imposed.
6. Employing Department. “Employing Department” means the University department responsible for the employment, workspace, or housing of an Applicant or Security-Sensitive Person. “Employing Department” may be the department where the Security-Sensitive Person is currently employed, the department where the Applicant will be employed upon hiring, the department providing space for a Security Sensitive Person to perform work, or the department providing housing for a Security Sensitive Person.
7. Security-Sensitive Person Any individual (employee or non-employee) who handles currency on behalf of the University, has access to a University computer system, has access to a master key, resides on campus and is not a student, or works in an area of the institution which has been designated by the University as Security-Sensitive. This does not include students who are not employed by the University. All individuals whose employment requires direct interaction with students are considered Security-Sensitive Persons for purposes of this policy. The Employing Department, along with Human Resources, shall be responsible for identifying Security-Sensitive Persons.

Procedures and Responsibilities

1. Requirement to Disclose and Authorize Background Check

- 1.01 All Applicants and Security-Sensitive Persons are required to disclose any disposition(s) and will be asked to consent to a criminal history background check. Failure to consent to a criminal history background check may result in revocation of an offer of employment and denial of permission to work or reside on campus.
- 1.02 All Applicants, Security-Sensitive Persons, and University employees must inform Human Resources of any change to the individual’s Criminal History Information within five (5) business days of the change.
- 1.03 Failure to disclose Criminal History Information within five (5) business days of a change, falsification of Criminal History Information, or other deception regarding Criminal History Information by an Applicant, Security-Sensitive Person, or University employee is grounds for termination from an existing position and denial of employment for the new position and future positions.
- 1.04 The duties of some Security-Sensitive Persons may require periodic background checks after hire. The Employing Department, with approval from Human Resources,

will designate those Security-Sensitive Persons subject to periodic background checks.

Responsible Party: All

2. Responsibilities of the Human Resources Department

The Human Resources Department shall:

- i. Obtain consent from the Applicant or Security-Sensitive Person prior to conducting a criminal history background check.
- ii. Conduct criminal history background checks.
- iii. Notify the Applicant or Security-Sensitive Person of an Adverse Report and allow the individual an opportunity to review the Adverse Report, subject to any restrictions applicable to CHRI.
- iv. Allow the Applicant or Security-Sensitive Person an opportunity to provide documentation establishing that the Criminal History Information revealed in the Adverse Report is inaccurate or otherwise unreliable.
- v. Correct any inaccuracies contained in the Adverse Report.
- vi. Discuss and evaluate Adverse Reports, voluntary disclosures of Criminal History Information, and job duties of the position to be filled to determine whether an Applicant or Security-Sensitive Person may present a safety or security risk.
- vii. Make the ultimate decision regarding whether an Applicant is disqualified for a position due to the Applicant's Criminal History Information, and notify the Applicant that an offer of employment has been rescinded due to an Adverse Report or voluntary disclosure of Criminal History Information.
- viii. Take appropriate measures in response to the Criminal History Information of a Security-Sensitive Person. Such measures may include, but are not limited to, denial of permission to work or reside on campus and disciplinary action up to and including termination.

Responsible Party: Human Resources Department

3. Responsibilities of the Employing Department

- 3.01 The Employing Department is responsible for ensuring criminal history background checks are completed on every Applicant prior to the Applicant's first day of employment.
- 3.02 The Employing Department must make any offer of employment contingent upon the Applicant's successful criminal history background check.

Responsible Party: Employing Department

4. Collection and Use of Criminal History Information

- 4.01 Criminal History Information will only be collected and used for making decisions regarding hiring, continued employment, who may work on campus, and who may reside on campus as a non-student. Criminal History Information will not be used in any manner to discriminate on the basis of race, color, national origin, religion, sex (including pregnancy, gender identity, and sexual orientation), disability, age, or genetic information.
- 4.02 This policy does not automatically exclude from consideration for employment all individuals with criminal convictions. However, an individual who has been convicted of a sexual offense that requires registration with any law enforcement agency in this or another jurisdiction shall not be eligible for employment while the individual is required to register as a sex offender.
- 4.03 A conviction that has been expunged or sealed by court order shall not be used in making an employment decision. An individual is not required to disclose a Disposition that has been expunged or sealed, and may deny the occurrence of a Disposition that is the subject of an expunction or sealing order.
- 4.04 Processing Criminal History Information is necessary to protect the vital interests of University community members, to perform tasks carried out in the public interest, and for the purposes of legitimate interests pursued by the University.

Responsible Party: Human Resources Department

5. Evaluation of Criminal History Information

In reviewing the results of a criminal history background check, consideration will be given to the nature of any Criminal History Information and to whether it may have an effect on the welfare of University students, employees, community members, or resources. Personnel actions resulting from Criminal History Information will be made on a case-by-case basis based on the following non-exhaustive factors:

- i. The specific duties of the position;

- ii. The number of offenses committed by the Applicant or Security-Sensitive Person;
- iii. The nature and seriousness of each offense;
- iv. The length of time between the offense and the employment decision;
- v. The efforts by the Applicant or Security-Sensitive Person at rehabilitation; and
- vi. The accuracy of the information provided by the Applicant or Security-Sensitive Person to the University.

Responsible Party: Human Resources Department

6. Retention and Disposition of Records

- 6.01 If the Applicant is hired, CHRI will be destroyed as soon as practicable after the Applicant begins employment with the University, or after the expiration of any probationary term of employment. If the Applicant is denied employment, CHRI shall be destroyed after it is used for its authorized purpose.
- 6.02 The Human Resources Department shall retain any Criminal History Information that does not constitute CHRI in accordance with the University's record retention policy.
- 6.03 The Applicant or Security-Sensitive Person is entitled to erasure of all Criminal History Information if the records are no longer necessary in relation to the purposes for which they were collected and the University is not obligated to retain the records under state or federal law.

Responsible Party: Human Resources Department

7. Confidentiality of Criminal History Information and CHRI

- 7.01 Criminal History Information obtained pursuant to this policy may not be disclosed to anyone other than the Applicant and persons who have a legitimate business-related need for this information, except with the explicit consent of the person who is the subject of the Criminal History Information.
- 7.02 To the extent allowed by the Texas Public Information Act and other state or federal laws, Criminal History Information will be treated as confidential.
- 7.03 CHRI may not be released or disclosed to any person except under court order or with the consent of the person who is the subject of the CHRI.

- 7.04 Release of Criminal History Information or CHRI, other than as allowed by law and this policy, may result in disciplinary action, up to and including termination of employment.
- 7.05 Criminal History Information will be kept secure using appropriate technical and organizational measures.

Responsible Party: All

References and Cross-references.

- *Texas Education Code § 51.215*
- *Texas Government Code § 411.082*
- *Texas Government Code §§ 411.084-085*
- *Texas Government Code § 411.092*
- *Texas Government Code § 411.094*
- *Texas Government Code § 552.023*
- *Texas Government Code §§ 559.003-005*
- Equal Employment Opportunity Commission Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.*
- Regulation (EU) 2016/679 (General Data Protection Regulation).

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