

Policies of the University of North Texas System Administration	Chapter 03
03.213 Criminal History Background Checks	Human Resources

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

Application of Policy. All employees, including student employees, candidates who have received an offer of employment, individuals in security-sensitive positions as defined by this policy, volunteers, and third parties who are involved with System Administration sponsored activities that involve contact with minors.

Definitions

1. **Candidate.** “Candidate” means any individual who receives an offer of employment, including external candidates, and current employees applying for a new position, or being considered for promotion, transfer, or reassignment.

2. **Contact with Minors.** “Contact with Minors” means supervising or mentoring a minor, whether in person or through any other means of communication (including text, social, or any other electronic media) and/or contact.”

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 or a Class A or Class B misdemeanor; (ii) formally charged with a felony or a Class A or Class B misdemeanor; 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.** “Criminal History Record Information” means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, and formal criminal charges and their resolutions. Criminal History Record Information 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. Criminal History Record Information will be used for the purpose of evaluating Candidates for Security-Sensitive Positions.

5. Disposition. “Disposition” means a conviction by a jury or court or plea of guilty or no contest to a felony or a Class A or Class B misdemeanor offense, regardless whether a sentence is imposed, or any action that results in the termination or indeterminate suspension of the prosecution of a criminal charge, including deferred adjudication.
6. Employee. “Employee” means an individual who is employed full-time, part-time, in a temporary status as staff or hourly, or who is required to be a student as a condition of employment.
7. Employing Department. “Employing Department” means the department responsible for the decision to offer employment to a Candidate or to promote, transfer, or reclassify an employee.
8. Security-Sensitive Position. “Security-Sensitive Position” means any position where the employee is required to handle currency on behalf of the System Administration, work in a location designated as security-sensitive, has access to System Administration computer and information resources, has access to the personal information of another person, has access to financial information, has access to a master key, or is designated by the System Administration as security-sensitive. All positions with direct interaction with students or in proximity to or working with minors are considered Security-Sensitive for purposes of this policy. The Employing Department and Human Resources shall identify Security-Sensitive Positions.

Procedures and Responsibilities

I. General Requirements

- A. All offers of employment are contingent upon the Candidate’s successful criminal history background check.
- B. The Employing Department shall ensure that criminal history background checks on all Candidates are completed by Human Resources prior to the Candidate’s first day of employment.
- C. No employee may begin work without satisfactory completion of a criminal history background check.

Responsible Party: Employing Department, Human Resources

II. Requirement to Disclose and Authorize Background Check

- A. All Candidates are required to disclose all known Disposition(s) and to consent to a criminal history background check. Failure to consent to a criminal history background

check will result in revocation of an offer of employment. Failure to disclose known Dispositions may result in revocation of an offer of employment.

- B. Internal Candidates who have not had a criminal history background check in the twelve (12) months before the effective date of a change in position must complete a new criminal history background check and disclose all known Dispositions occurring since the last background check. Failure to consent to the background check or to disclose a known Disposition will result in disciplinary action, including possible termination of employment.
- C. Employees are responsible for informing Human Resources of a known Disposition, in writing, within five (5) business days of the action. Failure to disclose a known Disposition may result in disciplinary action, including termination.
- D. The duties of some Security-Sensitive Positions may require periodic background checks after hire. The Employing Department, with approval from Human Resources, will identify those Security-Sensitive Positions subject to periodic background checks.

Responsible Party: Candidate, Human Resources, Employing Department, Employee

III. Collection and Use of Criminal History Information

- A. Human Resources shall:
 - i. Obtain consent for criminal history background checks.
 - ii. Conduct criminal history background checks.
 - iii. Evaluate Criminal History Information.
- B. Criminal History Information will be collected and used for making decisions related to employment and participation in UNT System activities and programs. Criminal History Information will not be used in any manner to discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, genetic information, or veteran status.
- C. An individual currently required to register as a sex offender in any jurisdiction is not eligible for employment.
- D. A Disposition 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.

Responsible Party: Human Resources

IV. Evaluation of Criminal History Information

- A. Employment actions related to Criminal History Information will be made on a case-by-case basis. Consideration will be given to the nature of the offense, the welfare of System Administration employees and its resources, and the community.

Consideration of employment of Candidates or individuals in security-sensitive positions may include factors from the following non-exhaustive list:

- i. The nature and duties of the position;
- ii. The number of offenses committed;
- iii. The nature and seriousness of each offense;
- iv. The length of time between the offense and the employment decision;
- v. The efforts at rehabilitation; and
- vi. The accuracy of the information disclosed.

Responsible Party: Human Resources

V. Retention and Disposition of Records

- A. If the Candidate is hired, Criminal History Record Information will be destroyed as soon as practicable after the Candidate begins employment. If the Candidate is denied employment, Criminal History Record Information shall be destroyed after it is used for its authorized purpose.
- B. Criminal History Information that does not constitute Criminal History Record Information will be retained in accordance with the System Administration's record retention policy.

Responsible Party: Human Resources

VI. Confidentiality of Criminal History Information and Criminal History Record Information

- A. To the extent allowed by the Texas Public Information Act and other state or federal laws, Criminal History Information will be treated as confidential and only disclosed to the Candidate and persons with a legitimate business-related need for the information.

- B. Criminal History Record Information 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 Criminal History Record Information.
- C. Release of Criminal History Information or Criminal History Record Information, other than as allowed by law or this policy, may result in disciplinary action, up to and including termination of employment.

Responsible Party: All

References and Cross-references.

Texas Education Code § 51.215

Texas Government Code § 411.082

Texas Government Code §§ 411.084

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.*

29 Code of Federal Regulation 1602.31 (Recordkeeping Under Title VII, the ADA and GINA)

Regulation (EU) 2016/679 (General Data Protection Regulation)

Approved: November 13, 2019

Effective: November 13, 2019

Revised: