

**HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES**

Chapter 4	General Personnel Policies	Effective:	November 2000
Section 4.4	Background Information Checks	Revised:	September 2014
<b>Policy 4.4.1</b>	<b>Criminal Background Checks</b>	Responsibility:	Vice President for Human Resources

## **CRIMINAL BACKGROUND CHECKS**

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### **Policy**

The UT Health Science Center at San Antonio (Health Science Center) is committed to promoting the safety and security of personnel and Health Science Center property. Accordingly, it is the policy of the Health Science Center to conduct a criminal background check consistent with the requirements of the law.

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### **Applicability**

This policy applies to all employees of the Health Science Center including faculty, administrative and professional (A&P), classified employees and individuals in positions requiring student status. The policy also applies to final applicants to University positions, interns, volunteers, and students in programs with assignments in clinical health care.

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### **Requirements**

A background check with a sex offender registry check must be conducted on any applicant, internal or external, who is under final consideration, following the normal screening and selection processes. This applies to all full-time, part-time, regular, temporary or student positions.

The Health Science Center is to consider places of employment and residence within the job candidate's last ten (10) years in order to determine from which jurisdictions background information will be obtained.

Any or all of the following background check sources may be used, as appropriate, on applicants for employment:

- (a) Texas Department of Public Safety (TxDPS) Crime Records Service – Secure and/or Public website.
  - (b) A private vendor, subject to compliance with the Fair Credit Reporting Act, that offers national criminal background check services.
  - (c) Other, public, state, national, and international sites.
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A background check with a sex offender registry check must be conducted on a current employee when the President, or his designee, determines it is necessary to further the goals of the institution.

A background check with a sex offender registry check must be conducted on individuals prior to their receiving a Without Salary (WOS) appointment to a position with a faculty academic title authorized under Regents' Rules and Regulations, Rule 31001.

Any or all of the following background check sources may be used, as appropriate, on current employees:

- (a) Texas Department of Public Safety (TxDPS) Crime Records Service – Secure and/or Public site.
- (b) A private vendor, subject to compliance with the Fair Credit Reporting Act, that offers national criminal background check services.
- (c) Other, public, state, national, and international sites.

A background check with a sex offender registry check must be conducted on volunteers.

Any or all of the following background check sources may be used, as appropriate:

- (a) Texas Department of Public Safety (TxDPS) Crime Records Service – Secure and/or Public site
- (b) A private vendor, subject to compliance with the Fair Credit Reporting Act, that offers national criminal background check services.
- (c) Other, public, state, national, and international sites.

Youth camp operators must ensure all final applicants and employees who will work at the camp, and all volunteers and student observers who will regularly or frequently be at the camp undergo a background check with a sex offender registry check conducted each year. The check must be conducted prior to permitting an individual to work, volunteer, or observe. Further volunteers and student observers who are not subject to a check must not have unsupervised access to campers.

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- (c) Other, public, state, national and international sites.

Student applicants in an educational program who have received an offer of admission must submit to and satisfactorily complete a background check review as a condition to matriculation. This includes a student in an educational program assigned to a clinical health facility or whose assignment may require working with patients. See each school's policy on criminal background checks.

Criminal background checks related to contractors and vendors, and their agents or employees who have or will have continuing duties related to the service to be performed on this campus and have or will have direct contact with employees, patients or students, can be referenced at [Section 8.7.11](#) of the *Handbook of Operating Procedures* (HOP) "Contractors and Vendors". See the HOP policy on the requirements for industry auditors and monitors visiting our campus at [Section 8.7.12](#) of the HOP "Industry Auditor and Monitor Visitation".

If the Health Science Center uses a third-party vendor credit reporting agency to conduct criminal record checks, the resulting report is considered a "Consumer Report" under the Fair Credit Reporting Act (FCRA). If such a report is relied on to deny employment, deny a promotion, reassign, or terminate an employee, the individual will be provided with a specific pre-adverse action disclosure that includes a copy of the individual's Consumer Report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual's report is required to give the institution the summary of consumer rights. (<http://ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>)

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**Recruitment  
Advertisement**

All advertisements and postings will include a statement that the position is security sensitive and the employer is authorized to obtain a criminal background check including criminal history record information and a sex offender registration check.

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**Statutorily  
Required Criminal  
Background  
Check**

Where state or federal law requires that a position be subject to a criminal background check using a specific source of criminal background check information and/or certain procedures, the Health Science Center will comply with such laws. To the extent such laws impose criminal background checks that are more extensive or substantially similar; the Health Science Center may rely on compliance with the statute to satisfy the requirements of this policy.

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**Procedures for  
Conducting  
Criminal  
Background  
Checks**

All finalists for job vacancies will be required to complete and sign the [Criminal Background Check \(CBC\)](#) form and undergo a criminal background check with a sex offender registry check prior to a job offer being made. A candidate or applicant both internal and external, who refuses to complete, sign and submit the form will be removed from further consideration for the position. To initiate the background check, one of the following will apply:

The hiring official will be responsible for obtaining completed and signed CBC forms from the job candidates that have been selected as a finalist. Once completed by the job candidates and the hiring official, the CBC form must be submitted to the Office of Human Resources.

Human Resources will be responsible for coordinating information with University Police. Upon receipt of the CBC forms from the hiring departments, and upon notification of a job finalist to be selected for the job, the Office of Human Resources will provide the pertinent information from the form to University Police who will be responsible for conducting the background check. The CBC authorization forms will be retained in the Office of Human Resources and later filed in the job candidate's personnel file, after the job appointment.

University Police will conduct the background check. Criminal history record information, including conviction and sex offender registry 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

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person. Under Texas Government Code § 411.085, the unauthorized release of criminal history record information is a criminal offense and, consequently, the Health Science Center should seek legal advice with respect to any requested release of such information.

Upon completion of the criminal background check, if there is a conviction in the faculty candidate's record within the last seven (7) years, the Chief of Police will confer with the respective Dean and Vice President for determination of employability of the candidate. If necessary, the Dean or Vice President may confer with the Vice President for Academic Faculty and Student Affairs and/or the President. The respective Dean or Vice President will be responsible for advising the hiring department and the Vice President for Human Resources regarding the candidate's employability.

If there is a conviction in the non-faculty job candidate's record within the last seven (7) years, the Chief of Police will confer with the Vice President for Human Resources to make a determination of employability of the candidate at the Health Science Center. The Vice President for Human Resources or his/her designee will be responsible for advising the hiring department regarding the candidate's employability.

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### **Guidelines**

Criminal background information obtained by the Health Science Center may be used only for the purpose of evaluating applicants for employment and shall in no way be used to discriminate on the basis of race, color, national origin, religion, sex, disability, citizenship, genetic information, veteran status, or age.

The Health Science Center's policy does not automatically disqualify an individual with a criminal record from employment or promotion. In the event the investigation reveals criminal conviction or other relevant information, the Vice President for Human Resources and the respective Dean or Vice President will determine on a case-by-case basis whether the individual is qualified based on factors such as:

1. Specific duties of the position;
2. Number of offenses;
3. Nature of each offenses;

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4. Length of time intervening between the offense and the employment decision;
  5. Employment history;
  6. Efforts at rehabilitation; and,
  7. Accuracy of the information that the individual provided on the employment application.

The Health Science center will not hire, continue to employ, appoint, or assign an individual if information is obtained that the individual has been convicted or placed on deferred adjudication for an offense that would require:

1. the individual to register as a sex offender under Chapter 62 Code of Criminal Procedure, which include but is not limited to such offenses as continuous sexual abuse of a young child; sexual assault; aggravated sexual assault; or
2. an offense under the laws of another state or federal law that is equivalent to an offense requiring such registration unless the hiring/appointing official as appropriate articulates a compelling justification, the Vice President of Human Resources, the Chief of Police, and the President concurs and the individual has no higher than a level one (low) risk as determined by the risk assessment screening toll implemented pursuant to Chapter 62, Code of Criminal Procedure. If no such risk level is assigned, then the risk level cannot exceed a low risk as determined by the Chief of Police.

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**Notification Requirements**

If the Health Science Center receives a report indicating that an applicant for employment, current employee, or volunteer has a criminal record shall notify the individual that such a report has been received, provide the individual with a copy of the report (except as provided by Law or DPS policy) and notify the individual of the right to challenge the accuracy and completeness of the report and the right to submit additional information relating to the criminal record and why it should not affect the decision. The applicant/current employee will have the option of submitting additional information related to the criminal record and why it should not affect an employment decision.

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1. External applicants for Employment – the decision of the institution is final and may not be appealed.
  2. Current Employee – Standard employee grievance procedures are available to challenge the decision. If the criminal record leads to termination, the applicable employee discipline and discharge procedures will be used.
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**Self-Reporting**

Employment applicants must report on their background check form and also on the employment application (for A&P and Classified) any charges, convictions, and/or whether registered as a sex offender or will be required to register as a sex offender excluding misdemeanor offenses such as traffic tickets punishable only by fine, occurring after the initial date of application.

Current employees must report to the Vice-President of Human Resources in writing, within five business days, any criminal complaints, information, indictment, no contest plea, guilty plea, and criminal convictions, excluding misdemeanor offenses punishable only by fine such as a traffic ticket. If a misdemeanor offense carries more than a punishment by fine, for example, community service, the offense must be reported.

Current employees must also report if they are registered as a sex offender or will be required to register as a sex offender. This information is reported using the Health Science Center’s [Notification of Criminal Background by Current Employees](#) form.

Subject to standard grievance and disciplinary procedures as applicable, falsification, omission of records, or failure to report as required is a violation of policy and may lead to disciplinary action as appropriate.

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**Records Retention**

After the expiration of the probationary period of the individual’s employment, the Chief of Police of the Health Science Center shall destroy all criminal history record information that the Health Science Center obtained about the individual. If the position is one that does not have a probationary period, the Chief of Police shall destroy the information 180 days after the institution obtains it.

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**Relevant Federal  
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Texas Education Code 51.215 – Access to Police Records of Employment Applicants

Texas Government Code 411.081 et seq – Criminal History Clearinghouse

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

Fair Credit Reporting Act, 15 U.S.C 1681 et seq.

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