



## TEXAS TECH UNIVERSITY™

### Operating Policy and Procedure

#### OP 70.20: Conducting Criminal Background Checks for Employment Purposes for Security-sensitive Positions

DATE: July 22, 2014

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish policy and procedure to ~~protect the safety and welfare of employees and the general public and preserve state property~~ promote Texas Tech University's commitment to a safe and secure environment by conducting ~~and using~~ criminal background checks in compliance with federal and state laws. TTU will ~~obtain criminal history information and check names against sex and violent offender registries and/or disbarment lists~~ conduct criminal background checks for applicants seeking employment with TTU in security sensitive positions, or current employees who are selected for ~~promotion or~~ reclassification. ~~who are selected for a security sensitive position, or employees whose position is reclassified to a security sensitive position.~~ The information will be used in order for the institution to make appropriate employment decisions.

**Commented [WS1]:** Grace asked if there is ever a time when a credit check is conducted because of someone's exposure to finances in their position. Answer- This has happened once or twice in the past five years for the TTUS CFO and for the past president. The search firms managed the credit check. This OP is referring to criminal background checks rather than credit checks. We do not believe this is the best location/OP to add expectations of credit checks.

**REVIEW:** This OP will be reviewed in September of odd-numbered years by the ~~assistant vice president managing director of~~ Human Resources, the managing director of the Texas Tech University System Office of Risk Management, and the chief of police with ~~recommended-substantive~~ revisions forwarded through administrative channels to the senior vice chancellor/chief financial officer or designee, ~~and the chief financial officer of staff and associate vice president for administration, and the university counsel, and finance.~~

#### POLICY/PROCEDURE

##### 1. General

A criminal background check refers to the process of seeking information about a person that includes a social security number verification, criminal records check, public court records check, driving records check, and sex offender registration. A criminal background check must be requested on applications prior to hire.

A licensing and certification records check may be ~~done~~ conducted in cases where licensure is required, and ~~the~~ names may be checked against appropriate disbarment lists.

This policy does not apply to TTU campus police department employees in criminal justice positions. Those security checks will be conducted in accordance with Chapter ~~441~~ 411, Subchapter F, Texas Government Code, and Texas Education Code, Section 51.215.

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**Commented [HL3]:** Changed from 441 to 411 per Ronald Phillips.

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##### 2. Applicants

a. ~~————~~ New Employees

All new ~~staff~~ employees, including direct appointments, will be required to have a background check which includes criminal history, sex offender, and violent offender check prior to employment. In cases where licensure is required, the names may be checked against appropriate disbarment lists. Any student selected for a position that is classified as security sensitive Level II will be required to have the same checks prior to employment.

b. Current Employees

~~Any e~~Current ~~staff~~ employees selected for promotion, including direct appointments, or whose position is reclassified, will be required to have a criminal background check prior to the promotion or reclassification becoming effective. This also includes any student position that is classified as security sensitive Level ~~I or~~ II.

The background check may be waived if the current ~~employee~~ has had a background check completed by TTU in the past six months. In this case a statement certifying that there have been no changes since the last background check was conducted is required.

c. Security Sensitive Level I

All staff and faculty positions, including temporary ~~staff~~ positions, at Texas Tech University will be classified as security sensitive Level I.

d. Security Sensitive Level II

~~In addition,~~ Other positions may be designated as security sensitive Level II, ~~and~~

e. Student Assistants

~~student~~ Student worker positions may be identified as security sensitive Level I or II if, in the opinion of the administrator and with approval of the ~~assistant vice president managing director~~ ~~effor~~ Human Resources, the duties and responsibilities are of such a nature to justify pre-employment criminal background checks and/or pre-employment and post-hire drug and alcohol testing.

f. Volunteer Workers

All volunteer workers, including youth camp volunteers, will be required to have a criminal background check prior to the beginning of their assignment. Before the background check can be ~~uan~~, a copy of the *Adult Volunteer Worker Application or Minor Volunteer Worker Application* must be sent to Human Resources (see OP 70.21 for additional details).

~~All new staff employees, including direct appointments, will be required to have a criminal history, sex offender, and violent offender check prior to employment. In cases where licensure is required, the names may be checked against appropriate disbarment lists. Any student selected for a position that is classified as security sensitive will be required to have the same checks prior to employment.~~

~~Any current staff employees selected for promotion, including direct appointments, or whose position is reclassified, will be required to have a criminal history, sex offender, and violent~~

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**Commented [PM5]:** Should we require a recertification form for ee who this applies to/faculty who are hired months in advance

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~~offender check prior to the promotion or reclassification becoming effective. This also includes any student position that is classified as security sensitive Level I or II. This policy does not apply to TTU campus police department employees in criminal justice positions. These security checks will be conducted in accordance with Chapter 441, Subchapter F, Texas Government Code, and Texas Education Code, Section 51.21~~

### 23. Procedure

- a. All security sensitive Level I or Level II positions will be identified as such in individual job descriptions, in any advertising for job applicants, and in all personnel transaction forms and/or correspondence concerning recruitment with the Human Resources department.

- b. After selection of the best qualified candidate, ~~the hiring manager shall~~

(1) Candidates applying through the applicant tracking system (Kenexa): the hiring manager shall complete a contingent offer letter within Kenexa and forward the offer letter to the candidate. Once the candidate has accepted the offer, Human Resources will initiate the background check process through the applicant tracking system.

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~~(2) Candidates not applying through the applicant tracking system, student employees, and volunteers: the hiring manager shall complete an on-line Disclosure and Authorization Form for Record Criminal Background Check (Attachment A), and, for Level II positions, Employee Consent to Drug and Alcohol Testing form (Attachment C). Refer to Attachment B for a list of Level II positions.~~

for Level II positions, Employee Consent to Drug and Alcohol Testing form (Attachment C). Refer to Attachment B for a list of Level II positions.

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- ~~(3) The hiring manager shall forward the Disclosure and Authorization Form for Criminal Background Check to the Assistant Vice President managing director of Human Resources or his/her designee; and~~

- (4) Candidates being considered for employment in Level II positions: The hiring manager shall have the candidate complete the Employee Consent to Drug and Alcohol Testing form (Attachment BC). Refer to Attachment B for a list of Level II positions.

- ~~(5) The hiring manager shall hold the Employee Consent to Drug and Alcohol Testing form in the applicant's file pending results of the records check (security sensitive Level II only).~~

- c. ~~Any applicant for~~ For a position that requires fingerprinting as a condition of employment any candidate who fails to provide a complete set of fingerprints upon request may be denied employment.
- d. The information provided by the applicant will be transmitted to the selected vendor, which shall perform the criminal background check.
- e. Upon receipt of the information from the vendor, background checks will be reviewed by the ~~Assistant Vice President managing director~~ of Human Resources or his/her designee and a notification indicating that the applicant is either eligible for hire or "not eligible for hire" will be sent to the hiring manager.

~~Note: No applicant listed as “not eligible for hire” previously convicted of a felony or misdemeanor involving moral turpitude (including probation or deferred adjudication) shall be eligible for employment without the written consent of the Chancellor or President.~~

~~f. Any candidate who is “not eligible for hire” will receive a written notification from the assistant vice president managing director of Human Resources or his/her designee. The notification will provide the candidate with information on the vendor that provided the information and a copy of the report. The candidate will have 10 business days to respond with any supporting documentation to refute the information contained in the criminal background check.~~

gf. Candidates for Level II positions must pass a post-offer/pre-employment drug screening as set forth in TTU OP 70.35.

hg. Criminal background records of staff and applicant background verifications are confidential. Such records will be plainly marked “CONFIDENTIAL” and will only be disclosed to those who have a need to know. The unauthorized disclosure of background information will be considered a breach of confidentiality, and the individual or individuals involved will be subject to discipline as deemed appropriate in accordance with the institution’s policy on confidentiality and the appropriate policy on discipline and discharge.

~~i. All criminal history record information obtained will be destroyed after the information is used for its authorized purpose.~~

~~j. Staff employees and students in security sensitive positions are required to notify their immediate supervisor within three business days of any convictions, other than minor traffic violations, which they receive during the term of their employment. Failure to report a conviction will be considered grounds for termination in accordance with the applicable discipline and discharge policy.~~

kh. A fee ~~may will~~ be charged to the hiring department for processing the background check ~~the following month~~. Expenses for drug screening may be passed on to the hiring department. Expenses associated with drug screening are the responsibility of the hiring unit.

#### 4. Review Process

An individual with a criminal record will not automatically be disqualified from employment. All background check results are reviewed on a case-by-case basis. Human Resources will take into consideration the time passed since the offense, whether the offense is related to the position being sought, and the overall criminal history of the applicant.

Any candidate who is “not eligible for hire” will receive notification from the assistant vice president of Human Resources or his/her designee. The notification will provide the candidate with information on the vendor that provided the information and a copy of the report. The candidate will have 10 business days to respond with any supporting documentation to refute the information contained in the criminal background check. ~~reach out to contact~~ the vendor to dispute any ~~the~~ convictions the applicant deems to be incorrect.

#### 5. Self-Reporting

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~~Faculty, Staff, and student -employees and students in-~~are required to notify their immediate supervisor of any convictions, other than minor traffic violations, which they receive during the term of their employment no later than ~~five~~ within three business days after the conviction takes place of any convictions, other than minor traffic violations, which they receive during the term of their employment. Failure to report a conviction can be considered grounds for termination in accordance with the applicable discipline and discharge policy.

**Commented [PM6]:** Regent's Rules .03.02.2

**Commented [HL7]:** Re-worded for clarity with Shaunta Wallace approval.

## 6. Retention

All criminal history record information obtained will be destroyed after the information is used for its authorized purpose.

## 7. Third Party Vendor Agency Report

Criminal Background checks are considered a "consumer report" under the Fair Credit Reporting Act (FCRA). The University complies with all applicable FCRA disclosure and notice requirements.

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## 38. Authoritative Reference

Texas Government Code, Chapter 441, Subchapter F  
Texas Education Code, Section 51.215

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## 9. Right to Change Policy

Texas Tech reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.

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Attachment A: ~~Disclosure and Authorization Form for Criminal Record~~Background Check

Attachment B: Security sensitive Position List

Attachment ~~BC~~: Consent to Drug and Alcohol Testing

Attachment D: ~~Authorization for Pre-employment Drug Testing~~

**Commented [WS8]:** Merged into one form per Todd Phillips