

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

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|---------------------|--|-----------------|------------------------------------|
| Chapter 4 | General Personnel Policies | Effective: | November 2000 |
| Section 4.4 | Background Information Checks | Revised: | February 2007 |
| Policy 4.4.1 | Criminal Background Checks for Security Sensitive Positions | Responsibility: | Vice President for Human Resources |

CRIMINAL BACKGROUND CHECKS FOR SECURITY SENSITIVE POSITIONS

Policy

To promote campus safety and the security of personnel and Health Science Center property, consistent with the requirements of the law and prudent financial and programmatic practices, it is the policy of the Health Science Center to obtain criminal history record information on applicants who are under final consideration, following normal screening and selection processes, for a position that is designated as a security sensitive position.

Security sensitive positions shall be 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 President, or his/her designee, will designate which positions or areas are security sensitive. The President has designated all positions at the Health Science Center as being security sensitive.

The Health Science Center shall conduct the criminal history record information or criminal conviction record information before the hiring official makes the employment decision. If circumstances require that an offer be made before the completion of an investigation, the offer must be in writing and state that the offer is contingent on the completion of a satisfactory criminal background check.

Definitions

APPLICANT: An individual who applies for a position at the Health Science Center. The Health Science Center may elect to exclude from this definition current employees who, at the time of application, are in positions designated as security sensitive and on whom the Health Science Center previously obtained criminal history record information.

CONTROLLED SUBSTANCE: This term has the meaning assigned in *Texas Health & Safety Code* § 481.002, as that section may be amended from time to time.

CRIMINAL CONVICTION RECORD INFORMATION: Public information maintained by the Department of Public Safety, as provided in *Texas Government Code* § 411.135.

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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.

HIRING OFFICIAL: The department supervisor or individual in the department responsible for selecting a qualified job candidate for a given position.

JOB CANDIDATE: A job applicant who is a finalist or is under final consideration for appointment to a position following normal screening and selection processes.

POSITION: Both full-time and part-time positions, regardless of percent time appointment and duration of employment, including temporary positions, 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 held responsible for conducting the criminal background check.

SELECT AGENT: This term has the meaning assigned in 18 U.S.C. § 175b, as that section may be amended from time to time. Also refer to the *Handbook of Operating Procedures* (HOP), [Section 8.10.1](#), "Select Biological Agents Policy".

Procedures

Security sensitive positions, designated by the institution, shall include the following:

1. All senior level administrator positions. These positions include Health Science Center executive officers and administrative officers, as identified in [Section 1.3](#), of the HOP, "Executive Officers".
2. Positions that have responsibility for providing patient care, as that term is defined in *Texas Human Resources Code* § 42.002(3), as it may be amended from time to time.
3. Positions that have direct access to, or responsibility for, pharmaceuticals, select agents, hazardous materials, or controlled substances.

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4. All faculty positions. This includes faculty as described in [Chapter 3](#), “Faculty Policies & Procedures”, of the HOP, including faculty holding administrative and professional appointments and faculty that are cross-appointed at the Veteran’s Administration hospital.
 5. All administrative and professional positions. This includes positions as described in [Section 4.3.3](#), “Administrative and Professional Employees”, of the HOP.
 6. All classified positions as described in [Section 4.3.2](#), “Recruitment and Selection of Classified Employees”, of the HOP.
 7. All student employee positions as described in [Section 4.3.5](#), “Student Employees”, of the HOP.
 8. All fellow and other positions whether regularly employed or on a temporary basis.
 9. All non-employee positions as defined under HOP policy, [Section 4.3.8](#), “Non-Employee Service”.

Recruitment of Positions

A security sensitive position shall be so identified in the job description and advertisement for the position.

Procedures for All Employee Appointments

1. All job candidates for job vacancies will be required to complete and sign the [Authorization for Security Background and Sanction Check](#) form and undergo a security background check prior to the job offer. A job candidate or applicant 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:
 - a. For faculty and senior level administrator positions, the hiring official will be responsible for obtaining completed and signed [Authorization for Security Background and Sanction Check](#) forms from the faculty job candidates selected for a job interview. Once completed by the job candidates and the hiring official, the [Authorization for Security Background and Sanction Check](#)

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form must be submitted to the Office of Human Resources prior to the job offer being made by the hiring department to the faculty or senior level administrator.

- b. For classified and administrative and professional positions, the hiring official will be responsible for obtaining a completed and signed [Authorization for Security Background and Sanction Check](#) forms from the job candidates selected for a job interview. Once completed by the job candidates and the hiring official, the [Authorization for Security Background and Sanction Check](#) form must be submitted to the Office of Human Resources prior to the job offer being made by Human Resources. A selection of candidate may be made by the hiring department; however, Human Resources will not make the job offer until the background check is completed.
 - c. For student, fellow, and other employee appointments, the hiring official will be responsible for obtaining a completed and signed [Authorization for Security Background and Sanction Check](#) form from job candidates selected for a job interview or under final consideration. Once completed by the job candidates and the hiring official, the [Authorization for Security Background and Sanction Check](#) form must be submitted to the Office of Human Resources prior to the job offer being made by the hiring department.
 - d. For non-employee positions, the hiring official will be responsible for obtaining a completed and signed [Non-Employee Appointment Form](#) from the person considered for the position. This form serves as authorization to conduct the security background check. Once completed by the individual and the hiring official, this form must be submitted to the Office of Human Resources prior to the work start date of the non-employee. The security background and sanction check is not required for the non-employee Emeritus positions.
2. Human Resources will be responsible for coordinating information with University Police. Upon receipt of the [Authorization for Security Background and Sanction Check](#) forms from the hiring departments, and upon notification of a job finalist to be selected for the job, Human Resources will provide the pertinent information

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from the form to University Police who will be responsible for conducting the background check. The authorization forms will be kept in the Office of Human Resources and later filed in the job candidate's personnel folder after the job appointment.

3. University Police will conduct the background check upon receipt of the pertinent information from the authorization form completed by the job candidate. Criminal history record information, including conviction 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 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.
4. Upon completion of the security background check, if there is a conviction in the faculty job candidate's record within the last ten (10) years, the Chief of Police will confer with the respective Dean or Vice President for determination of employability of the candidate. If necessary, the Dean or Vice President may confer with the Vice President for Academic Administration and/or the President. The respective Dean or Vice President will be responsible for advising the hiring department and the Assistant 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 ten (10) 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 will be responsible for advising the hiring department regarding the candidate's employability.

5. After the expiration of the probationary term 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, then the Chief of Police shall destroy the information 180 days after the institution obtains it.

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Provisions

Criminal history record information obtained by the Health Science Center 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.

The job offer may be extended by the appropriate party as authorized by this policy and in accordance with Health Science Center policies provided all necessary employment-related checks have been completed. These checks include the criminal background check, sanction check, selective service check, and driver's license check.

There is no time limit between the date in which the security background and sanction check is completed and the effective date of hire.

Guidelines

In determining which areas to designate as security sensitive, the President, or his/her designee, should consider offices which perform functions that may pose increased risks at the Health Science Center, such as those areas with:

1. Direct responsibility for the care, safety, or security of humans; or the safety or security of personal and Health Science Center property;
2. Responsibility for operating, in the course of normal job duties, Health Science Center-owned or leased vehicles, machinery or toxic systems that could cause death, injury or health problems;
3. Significant inventory control responsibilities, including receipt and release of inventory;
4. Direct access to, or responsibility for, cash, checks, or Health Science Center property, disbursements or receipts;
5. Responsibility for execution or approval of financial transactions;
6. Direct access to, or responsibility for, classified information pertaining to the national defense;
7. Unsupervised access to the Health Science Center, employee or

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student property, including access in the course of normal job duties;

8. Responsibility for the preparation, maintenance, or approval of the financial, payroll, personnel, or purchasing systems; and,
9. Direct access to sensitive data, including data protected by federal or state law, medical records, personnel records, other personal data, or confidential criminal justice information, or to critical data processing systems.

The Health Science Center's policy and procedures does not automatically disqualify from employment all individuals with conviction records. In the event the investigation reveals criminal convictions 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 offense;
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 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.
