

<b>The University of North Texas at Dallas Policy Manual</b>	Chapter 5.000
<b>5.027 Criminal History Checks for Security Sensitive Positions</b>	<b>Human Resources</b>

**Policy Statement.** The University of North Texas at Dallas is committed to protecting the welfare and providing for the security of its students, employees, institutional resources, and the public. One way to achieve this objective is to conduct criminal history background checks on all applicants for and employees in positions defined as security-sensitive by the University. In furtherance of its goal of protecting the welfare of its human and financial resources, the University shall inquire into the criminal history background of any individual who receives an offer of employment at the University and of all current employees who are being considered for transfer, promotion, or reclassification to a security-sensitive position and for whom no criminal history background check has previously been completed.

**Application of Policy.** This policy applies to all employees.

**Definitions.**

1. **Adverse Report.** “Adverse Report” means results from a criminal history information search that reveal criminal dispositions against an employee or applicant, including voluntary disclosure of criminal history information.
2. **Applicant.** “Applicant” means any individual who applies for a position with the University of North Texas at Dallas, whether the individual is an outside candidate or a current employee.
3. **Criminal History Information.** “Criminal History Information” means any information, whether obtained through disclosure or in an adverse report, in which an individual is identified as having been indicted or convicted or which identifies any other formal disposition of criminal charges pertaining to such individual, including acquittal, sentencing, correctional supervision, or release.
4. **Criminal History Record Information.** “Criminal History Record Information” means criminal history information maintained in a restricted database which may be accessed or used only as authorized by section 411.094 of the Texas Government Code or section 51.215 of the Texas Education Code.
5. **Disposition.** “Disposition” means a conviction by a jury or a court or a plea of guilty or *nolo contendere*, regardless of whether sentence is imposed, or any action that results in the termination or indeterminate suspension of the prosecution of a criminal charge.

6. Hiring Official. “Hiring Official” means the department head or other equivalent administrative official responsible for the decision to offer employment to an applicant or to promote, transfer, or reclassify an employee to a security sensitive position.
7. Position. “Position” means a full-time or part-time position filled by a regular or a temporary worker, except a position that requires the individual be enrolled as a student at the university.
8. Security-sensitive Position. “Security-sensitive Position” means any position in which the employee handles currency, has access to a computer terminal, has access to a master key, comes into direct or indirect contact with students, or works in an area of the institution which has been designated as a security-sensitive area. All areas of the institution open to students of any age are considered security-sensitive areas for purposes of this policy.

### **Procedures and Responsibilities.**

#### **1. Requirement to Disclose and Authorize Background Check.**

- 1.01. All successful applicants and current employees who are selected for transfer, renewal, promotion, or reclassification to a security-sensitive position are required to disclose any criminal disposition(s) and will be asked to consent to a criminal history background check by signing a criminal history authorization form. An individual who is convicted of a crime after applying for a position or after actions have been taken to consider him or her for a favorable personnel action are responsible for informing the Human Resource department within five days of the conviction.
- 1.02. Failure to consent to a criminal history background check or any misrepresentation in a disclosure may result in revocation of an offer of employment or termination of favorable personnel action and disqualification from further consideration for the position.
- 1.03. Ordinarily, a criminal history background check will be completed before an offer of employment is made. If circumstances dictate that an offer of employment be extended before completion of a criminal history background check, however, the offer letter must state that the offer and continued employment is contingent upon successful completion of the check. Failure to make the offer contingent upon successful completion of a background check does not create an entitlement to the position.

**Responsible Party: Employees and Human Resources**

2. **Responsibilities of the Human Resources Department.**

2.01. The Human Resources Director shall be responsible for identifying positions as security sensitive.

2.02. The Human Resources department will be responsible for:

- i. obtaining the information necessary for criminal background screening, conducting background checks, and retaining and destroying criminal history information in accordance with this policy;
- ii. developing and revising forms required under this policy;
- iii. notifying individuals whose records indicate criminal history information that was omitted from their employment applications and administering the process for challenging the accuracy of the criminal history information;
- iv. evaluating adverse reports and individual disclosures along with the job duties of the position to be filled to determine whether an individual's criminal history may present a safety or security risk; and
- v. informing the hiring official when the criminal history background check is completed and when an adverse report is received, and discussing the relevancy of criminal information with the hiring official as the information relates to the personnel decision being considered.

Responsible Party: Human Resources

3. **Responsibilities of the Hiring Manager.**

3.01. The hiring manager is responsible for obtaining a properly completed criminal history release form when a criminal history background check is required and for ensuring background checks are completed before job offers are made or before a transfer, promotion, or reclassification decision is made. The hiring department also will be responsible for any additional fees incurred for conducting international criminal history checks.

3.02. The hiring manager, in consultation with the Human Resources department, will inform an applicant in writing when an employment offer is revoked or when a favorable personnel action is not taken based on the results of a criminal history background check.

Responsible Party: Hiring Manager

4. **Use of Criminal History Information.**

- 4.01. Criminal history information will be used only for evaluating personnel decisions involving security-sensitive positions and shall not be used in any manner to discriminate on the basis of race, color, national origin, religion, sex, disability, age, veteran status, sexual orientation, or for any unlawful reason.
- 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 or favorable personnel action to a security sensitive position while he/she is required to register as a sex offender.
- 4.03. A conviction that has been expunged or sealed by order of a competent court shall not be used in making an employment decision. An individual is not required to disclose a conviction which has been expunged or sealed and may deny the occurrence of the disposition that is the subject of an expunction or sealing order.

Responsible Party: All

5. **Suitability Guidelines.**

In reviewing the results of a criminal history background check, consideration will be given to the nature of any revealed disposition and to whether it may have an effect on the welfare of University students, employees, or resources or on the public. Whether a disposition results in withdrawal of an offer of employment or termination of favorable personnel action will be made on a case-by-case basis based on factors that include:

- i. the specific duties of the position;
- ii. the number of offenses committed by the individual
- 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 individual at rehabilitation; and
- vi. the accuracy of the information provided in the individual's employment application.

Responsible Party: Human Resources and Hiring Manager

6. **Retention and Disposition of Records.**

- 6.01 Criminal history information obtained pursuant to this policy shall be maintained in the Human Resources department for two years from the date an adverse personnel decision is made unless longer retention is necessary. Information will be destroyed in accordance with the University record retention policy.
- 6.02 All other criminal history record information will be retained according to the Records Management Retention schedule and then destroyed.

Responsible Party: All

7. **Confidentiality of Criminal History Information and Criminal History Record Information.**

- 7.01 Criminal history information obtained pursuant to this policy may not be disclosed to anyone other than the individual about whom the information was obtained or to persons involved in the hiring process or who have a legitimate business-related need for this information without the written authorization of the applicant or staff member.
- 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. Criminal history record information obtained pursuant to section 411.094 of the Texas Government may not be released or disclosed to any person except on court order.
- 7.03 Release of criminal history information or criminal history record information other than as allowed by law or this policy may result in disciplinary action, including termination of employment.

Responsible Party: All

8. **Access and Review of Criminal History Information.**

An applicant or employee about whom criminal history information is collected under this policy shall be given access to any information relating to him/her and the opportunity to correct information in accordance with the University privacy policy and Chapter 559 of the Texas Government Code.

Responsible Party: All

**References and Cross-references.** None.

Approved: 8/31/2010

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Revised: