

ADMINISTRATIVE PROCEDURE

Criminal History Background Checks

Related Policy: 05.006 – Criminal History Background Checks

The University of North Texas is committed to protecting the welfare and providing for the security of its students, employees, institutional resources, and the public.

Criminal history background checks will be required for positions defined as security-sensitive by the University, including compliance with Chapter 81 of the Texas Civil Practices and Remedies Code in relation to mental health services providers.

1. **Definitions**

1. **Adverse Report**. “Adverse Report” is the results from a criminal history information search that reveals criminal dispositions against an individual, including voluntary disclosure of criminal history information.
2. **Applicant**. “Applicant” is any individual who applies to and is qualified for a posted position with the University of North Texas using the UNT employment website, whether the individual is an outside candidate or a current employee.
3. **Criminal History Background Check (CHC) Information**. “Criminal History Background Check Information” is 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” is the 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” is a conviction by a jury or a court or a plea of guilty or *nolo contendere*, including deferred adjudication, 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” is the department head or other equivalent administrative official responsible for the decision to offer employment.
7. **Mental Health Services**. “Mental Health Services” means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in: alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction; understanding conscious or subconscious motivations; resolving emotional, attitudinal, or relationship conflicts; or modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.
8. **Mental Health Services Provider**. “Mental Health Services Provider” is an individual, licensed or unlicensed, who performs or claims to perform mental health services,

including a: certified social worker, chemical dependency counselor, licensed professional counselor, licensed marriage and family therapist, physician who is practicing medicine, or psychologist offering psychological services.

9. Patient. "Patient" is an individual who seeks or obtains mental health services.
10. Security-Sensitive Position. "Security Sensitive Position" is any position in which the employee handles currency, has access to a computer terminal, has access to a master key, 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 these procedures and related policy.
11. Sexual Exploitation. "Sexual Exploitation" is a pattern, practice, or scheme of conduct, which may include sexual contact, which can reasonably be interpreted as being for the purpose of sexual arousal or gratification or sexual abuse of any person.

2. Procedures for Criminal History Background Checks

- 2.1 Determining Security-Sensitive Positions. All staff positions designated to be security-sensitive will be identified by the Human Resources Department. Faculty positions designated to be security-sensitive will be identified by the Office of the Provost.
- 2.2 Requirement to Disclose and Authorize a Background Check. All applicants and current employees who are selected for a security-sensitive position will be asked to voluntarily disclose any criminal disposition(s) and to consent to a criminal history background check by signing a criminal history authorization form. For current employees, a criminal history background check will only be conducted if there is not already one on file or for current faculty members who are undergoing a personnel review that could result in the granting of tenure. The completion of a criminal history background check is a contingency of employment. Additionally, any misrepresentation in a voluntary disclosure may result in revocation of an offer of employment or termination of employment.

An individual who is convicted of a crime after applying for a position or after receiving an offer of employment is responsible for informing the Human Resources Department within five (5) business days of the conviction.

- 2.3 Employment Offer. The hiring official is responsible for making a contingent offer of employment to the final candidate pending the acceptable results of the criminal history background check. Employment may not begin until the University has received acceptable results from the background check. The offer letter must state that the offer is contingent upon successful completion of the criminal history background check; however, failure to communicate this information does not create an entitlement to the position.
- 2.4 Verification of Criminal History Information. Human Resources (staff positions) or the Office of the Provost (faculty positions) will process criminal history background checks, review results, and communicate those results to the hiring official. The hiring department will be responsible for any additional fees incurred for conducting international criminal history background checks.

An individual about whom criminal history information is collected under this associated policy will be given access to any information relating to him/her and the right to correct information in accordance with the University privacy policy and Chapter 559 of the Texas Government Code.

- 2.5 Adverse Results. Human Resources (staff positions) or the Office of the Provost (faculty positions) will inform an individual about whom an adverse report is received or whose application failed to list criminal history information contained in a report in writing via certified mail. Individuals will be given a reasonable time, generally not less than five (5) business days, to meet and provide documentation establishing that the report is inaccurate, that a reported felony conviction is a lesser violation under the laws of the charging jurisdiction, that a disposition was the subject of a subsequent expunging or sealing order by a competent court, or that the report is otherwise unreliable.

Information received will be evaluated 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. If the final candidate has an unsatisfactory criminal history background check or has falsified the employment application, Human Resources or the Office of the Provost will verbally inform the hiring official. If the Provost determines that a disposition could terminate a personnel review, he/she will consult with the Dean of the College/School in which the faculty member is seeking tenure before a final decision is made.

Information will only be shared with those who are directly involved in the hiring decision. *Information or decisions relating to adverse reports should never be communicated via email.*

If the hiring official wishes to employ an individual with adverse results against the recommendation of Human Resources or the Office of the Provost, approval must be granted by the respective Vice President for the area.

Human Resources or the Office of the Provost will inform the individual in writing when an employment offer is revoked based on the results of a criminal history background check.

- 2.6 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 the University students, employees, resources or on the public. Whether a disposition results in withdrawal of an offer of employment will be made on a case-by-case basis based on factors that include:

- i. accuracy of the information provided in the individual's employment application;
- ii. specific duties of the position;
- iii. number of offenses committed by the individual;
- iv. nature and seriousness of each offense;
- v. length of time between the offense and the employment decision; and

vi. efforts by the individual at rehabilitation.

- 2.7 Use of Criminal History Information. Criminal history information will be used only for the purpose of evaluating applicants for employment in security-sensitive positions and in no way shall be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age, veteran status, genetic information, or for any unlawful reason.

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 to a security-sensitive position while he/she is required to register as a sex offender.

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.

3. Procedures for Mental Health Services Providers

- 3.1 Additional Requirements for Mental Health Services Providers. The hiring official is required to obtain further information on all mental health services providers in compliance with Chapter 81 of the Texas Civil Practices and Remedies Code. Inquiries should be made of any applicable licensing agency with which the applicant is registered, and of current and former employers, whose names and addresses have been disclosed to the University, and who employed the person as a mental health services provider within the past five years. Inquiries should be made concerning the possible occurrence of sexual exploitation by the mental health services provider of patients or former patients. Reported information is privileged and may not be disclosed for unauthorized purposes. Certification that the appropriate inquiries have been initiated and completed with responses received must accompany the written offer letter for employment.
- 3.2 Finding of Sexual Abuse. In the case of inquiries indicating previous suspected or confirmed sexual abuse, the hiring official must confer with Human Resources for staff positions or the Office of the Provost for faculty positions prior to taking any action regarding the individual.
- 3.3 Reporting Alleged Sexual Exploitation. Any individual having reasonable cause to believe a patient has been the victim of sexual exploitation by a UNT mental health services provider during the course of treatment should immediately report the alleged conduct to Human Resources and the Office of General Counsel who is responsible on behalf of the University to report the allegation (1) to the prosecuting attorney in the county in which the alleged sexual exploitation occurred and (2) to any applicable state licensing board which has responsibility for the licensing of the mental health services provider involved. Reported information is privileged and may not be disclosed for unauthorized purposes. The identity of the alleged victim of sexual exploitation by a mental health services provider may not be disclosed unless the alleged victim has consented to the

disclosure in writing. A person who, in good faith, makes a report is immune from civil or criminal liability resulting from the filing of that report.

4. Confidentiality and Recordkeeping

- 4.1 Confidentiality of Criminal History Information. To the extent allowed by the Texas Public Information Act and other state or federal laws, criminal history information obtained may not be disclosed to anyone other than the individual about whom the information was obtained or to individuals involved in the hiring process or who have a legitimate business-related need for this information without the written authorization of the individual. Criminal history information obtained pursuant to section 411.094 of the Texas Government Code may not be released or disclosed to any person except on court order.
- 4.2 Recordkeeping. Criminal history information will be retained by Human Resources for staff positions and by the Office of the Provost for faculty positions. Only the completed Criminal History Check Authorization Form will be placed in the individual's personnel file. The Criminal History Check Authorization Form identifies the name of the applicant, the date the background check was completed, and the date the results were communicated. All other criminal history information relating to the background check will be tracked and maintained separately and destroyed in accordance with the University record retention policy.

5.0 Applicable Regulations

[Texas Government Code 411.085](#)

[Texas Government Code 411.094](#)

[Texas Government Code 559](#)

[Texas Education Code 51.215](#)

[Texas Civil Practices and Remedies Code, Chapter 81](#)

Approved: 2/22/2012

Effective: 2/22/2012

Procedure Owner: Human Resources

Procedure Contact: Human Resources