

Policies of the University of North Texas	Chapter 05
<b>05.006 Criminal History Background Checks</b>	Human Resources

**Policy Statement.** The University of North Texas is committed to protecting the welfare of its students, employees, institutional resources, and the public. To achieve this objective, the University will conduct criminal history background checks as detailed by this policy.

**Application of Policy.** All employees, including student employees, applicants who have received an offer of employment, and individuals in security-sensitive positions as defined by this policy. This policy does not apply to background checks conducted for individuals associated with programs for minors or positions under the administrative direction and control of the University’s chief law enforcement officer.

**Definitions**

1. **Adverse Report.** “Adverse Report” means any document or communication revealing Criminal History Information of an Applicant, other than a voluntary disclosure by the Applicant.
2. **Applicant.** “Applicant” means any individual under final consideration for employment with the University, including external candidates, current employees applying for a new position, being considered for promotion, tenure, transfer, or reassignment, and students. Applicant does not mean faculty promoted in rank in their current position or faculty appointed to a faculty administrative role within their current department.
3. **Criminal History Information.** “Criminal History Information” means any information—whether obtained through a voluntary disclosure, a criminal history background check, or other means—in which an individual is identified as having been: (i) convicted of a felony, Class A misdemeanor, or Class B misdemeanor offense; (ii) formally charged with a felony, Class A misdemeanor, or Class B misdemeanor offense; or (iii) a participant in a pretrial diversion program resulting in the termination or indeterminate suspension of the prosecution of a criminal charge.
4. **Criminal History Record Information.** “Criminal History Record Information” means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, and formal criminal charges and their resolutions. Criminal History Record Information is maintained in a restricted database that may be accessed or used only as authorized by Chapter 411 of the Texas Government Code and section 51.215 of the Texas Education Code. Criminal

History Record Information will be used for the purpose of evaluating Applicants for Security Sensitive Positions.

5. Designated Hiring Department. “Designated Hiring Department” means a University department or UNT System Administration department that performs human resource functions with respect to hiring. The designated hiring departments are Human Resources Department, Risk Management Services, the Office of the Provost, and the Career Center.
6. Disposition. “Disposition” means a conviction by a jury or court or plea of guilty or no contest, including deferred adjudication, to a felony, Class A misdemeanor, or Class B misdemeanor offense, regardless of whether a sentence is imposed. Or any action that results in the termination or indeterminate suspension of the prosecution of a criminal charge.
7. Employee. “Employee” means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, hourly, or who is required to be a student as a condition of employment, undergraduate or graduate.
8. Employing Department. “Employing Department” means the University department responsible for the decision to offer employment to an applicant or to promote, transfer, or reclassify an employee.
9. Mental Health Services Provider. “Mental Health Services Provider” means an individual, licensed or unlicensed, who performs or claims to perform mental health services, including a:
  - a. Certified social worker;
  - b. Chemical dependency counselor;
  - c. Licensed professional counselor;
  - d. Licensed marriage and family therapist;
  - e. Physician who is practicing medicine; or
  - f. Psychologist offering psychological services.
10. Security-Sensitive Position. “Security Sensitive Position” means any position where the employee is required to handle currency on behalf of the University, work in a location designated as security sensitive, is required to live on-campus as a condition of employment, has access to the University computer system, has access to the personal information of another person, has access to financial information, or has access to a master key, or is designated by the University as security sensitive. All positions with direct interaction with students are considered Security-Sensitive for purposes of this policy. The Employing Department, and Human Resources Department or Designated Hiring Department, shall identify Security-Sensitive Positions.  
The spouse or partner of an employee who is required to live on -campus as a condition of employment in a security sensitive position must consent to a Background Check in order to reside on campus with the employee.

## Procedures and Responsibilities

### I. Requirement to Disclose and Authorize Background Check

- A. All Applicants and employees are required to disclose any known Disposition(s) and will be asked to consent to a criminal history background check. Failure to consent to a criminal history background check or disclose known dispositions will result in revocation of an offer of employment and denial of permission to work or reside on campus.
- B. All Applicants, employees in Security-Sensitive Positions, and employees must inform the Human Resources Department or Designated Hiring Department of any change to the individual's Criminal History Information within five business days of the change.
- C. Failure to properly disclose a change in Criminal History Information within five business days of a change, falsification of Criminal History Information, or other deception regarding Criminal History Information by an Applicant or employee is grounds for termination from an existing position or revocation of an offer of employment for a new position.
- D. The duties of some Security-Sensitive Positions may require periodic background checks after hire. The Employing Department, with approval from the Designated Hiring Department, will identify those Security-Sensitive Positions subject to periodic background checks.

Responsible Party: Applicant, Designated Hiring Department,  
Employing, Employee

### II. Responsibilities of the Human Resources Department or Designated Hiring Department

- A. The Designated Hiring Department shall:
  - i. Obtain consent for criminal history background checks.
  - ii. Conduct criminal history background checks.
  - iii. Evaluate Adverse Results.
- B. For positions designated as Mental Health Services Provider positions, the Designated Hiring Department shall conduct background checks in accordance with Chapter 81 of the Texas Civil Practices and Remedies Codes for Applicants and employees.

Further, any occurrence of sexual exploitation by a mental health services provider, or reasonable suspicion of the same, must be reported to the appropriate legal and accreditation authorities.

Responsible Party: Human Resources Department, Designated Hiring Department

III. Responsibilities of the Employing Department

- A. The Employing Department shall ensure that criminal history background checks on all Applicants are completed by the Designated Hiring Department prior to the Applicant's first day of employment.
- B. The Employing Department must make any offer of employment contingent upon the Applicant's successful criminal history background check.

Responsible Party: Employing Department

IV. Collection and Use of Criminal History Information

- A. Criminal History Information will be collected and used only for making decisions regarding hiring, who may work on campus, and who may reside on campus as a non-student. Criminal History Information will not be used in any manner to discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, genetic information, or veteran status.
- B. An individual required to register as a sex offender in any jurisdiction shall not be eligible for employment at the University as long as they are required to register. Any other criminal conviction will not automatically exclude an applicant or current employee from consideration for a position.
- C. A conviction that has been expunged or sealed by court order shall not be used in making an employment decision. An individual is not required to disclose a Disposition that has been expunged or sealed, and may deny the occurrence of a Disposition that is the subject of an expunction or sealing order.

Responsible Party: Designated Hiring Department

V. Evaluation of Criminal History Information

- A. Personnel actions related to Criminal History Information will be made on a case-by-case basis. Consideration will be given to the nature of the Criminal History Information and the welfare of University students, employees, the community, and resources. Consideration of employment may include factors from the following non-exhaustive list:
  - i. The specific duties of the position;

- ii. The number of offenses committed by the Applicant or Security-Sensitive Person;
- 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 Applicant or Security-Sensitive Person at rehabilitation; and
- vi. The accuracy of the information provided in the Applicant or Security-Sensitive Person's employment application.

Responsible Party: Designated Hiring Department

VII. Retention and Disposition of Records

- A. If the Applicant is hired, Criminal History Record Information will be destroyed as soon as practical after the Applicant begins employment with the University. If the Applicant is denied employment, Criminal History Record Information shall be destroyed after it is used for its authorized purpose.
- B. Criminal History Information that does not constitute Criminal History Record Information will be retained in accordance with the University's record retention policy.

Responsible Party: Designated Hiring Department

VIII. Confidentiality of Criminal History Information and Criminal History Record Information

- A. To the extent allowed by the Texas Public Information Act and other state or federal laws, Criminal History Information will be treated as confidential and only disclosed to the applicant and persons with a legitimate University business related need for the information.
- B. Criminal History Record Information may not be released or disclosed to any person except under court order or with the consent of the person who is the subject of the Criminal History Record Information.
- C. Release of Criminal History Information or Criminal History Record Information, other than as allowed by law or this policy, may result in disciplinary action, up to and including termination of employment.

Responsible Party: All

References and Cross-references.

UNT Policy 15.003, Programs for Minors

*Texas Education Code § 51.215*

*Texas Education Code § 411.082*

*Texas Government Code §§ 411.084-085*

*Texas Government Code § 411.092*

*Texas Government Code § 411.094*

*Texas Government Code § 552.023*

*Texas Government Code §§ 559.003-005*

Equal Employment Opportunity Commission Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.*

Regulation (EU) 2016/679 (General Data Protection Regulation)

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