



Policy Chapter: Chapter 5 Human Resources

Policy Number and Title: 05.006 Background Checks

I. Policy Statement

The University of North Texas (UNT) 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.

II. 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 administered by the Youth Protection Program or positions under the administrative direction and control of the University's chief law enforcement officer.

III. Policy Definitions

A. Adverse Report

"Adverse Report," in this policy, means any document(ation) or communication revealing Criminal History Information of an Applicant, other than a voluntary disclosure by the Applicant.

B. Applicant

"Applicant," in this policy, means any individual under final consideration for employment with the University, including external candidates, students, and current employees. This includes current employees who are applying for a new position or being considered for promotion, tenure, transfer, or reassignment. Applicant does not mean faculty promoted in rank in their current position or faculty appointed to a faculty administrative role within their current department.

C. Background Check Department

"Background Check Department," in this policy, means a University department or UNT System Administration department responsible for conducting background checks of applicants during the hiring process. Background Check Departments include: Human Resources, Academic Resources in the Office of the Provost, the Career Center, and the Youth Protection Program.

D. Child Care Facility

"Child Care Facility," in this policy, means an Employing Department whose operation is a licensed childcare center, school-age program, or before- or after-school program, and subject to the childcare licensing background check requirements of section 745.605 of the Texas Administrative Code.

E. Criminal History Information

“Criminal History Information,” in this policy, 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.

F. Criminal History Record Information

“Criminal History Record Information,” in this policy, 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.

G. Disposition

“Disposition,” in this policy, 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, and any action that results in the termination or indeterminate suspension of the prosecution of a criminal charge.

H. Employee

“Employee,” in this policy, 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.

I. Employing Department

“Employing Department,” in this policy, means the University department responsible for the decision to offer employment to an applicant or to promote, transfer, or reclassify an employee.

J. Mental Health Services Provider

“Mental Health Services Provider,” in this policy, means an individual, licensed, or unlicensed, who performs or claims to perform mental health services, including a:

1. certified social worker,
2. chemical dependency counselor,
3. licensed professional counselor,

4. licensed marriage and family therapist,
5. physician who is practicing medicine, or
6. psychologist offering psychological services.

K. Security-Sensitive Position

“Security Sensitive Position,” in this policy, 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 Background Check Department, shall identify Security-Sensitive Positions.

The spouse or partner of an employee in a security sensitive position, who is required to live on campus, is considered to be an individual in a security sensitive position for purposes of this policy, if the spouse or partner lives on campus.

IV. Policy Responsibilities

A. Requirement to Disclose and Authorize Background Check

1. All individuals to whom this policy applies 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 may result in revocation of an offer of employment and denial of permission to work or reside on campus.
2. All individuals to whom this policy applies must inform the Human Resources Department or Background Check Department of any change to the individual’s Criminal History Information within five business days of the change.
3. Failure to properly disclose a change in Criminal History Information within five business days of the change, falsification of Criminal History Information, or other deception regarding Criminal History Information by an individual to whom this policy applies is grounds for termination from an existing position, revocation of an offer of employment for a new position, or revocation of on-campus housing.
4. Some Security-Sensitive Positions may require periodic background checks after hire. The Employing Department, with approval from the Background Check Department, will identify those Security-Sensitive Positions subject to periodic background checks.

B. Responsibilities of the Human Resources Department or Background Check Department

1. The Background Check Department shall:

- a. obtain consent for criminal history background checks,
 - b. conduct criminal history background checks, and
 - c. evaluate Criminal History Information.
2. For positions designated as Mental Health Services Provider positions, in addition to the other background checks required in this policy, the Background Check Department must contact the applicant's employer or former employers over the past five years (if the applicant was employed as a mental health services provider) and inquire about possible occurrences of sexual exploitation of patients or former patients as required by section 81.003 of the Texas Civil Practices and Remedies Code.

C. Responsibilities of Child Care Facilities

1. In addition to criminal history background checks required for security sensitive positions, applicants for employment in a Child Care Facility are subject to child care regulation background checks and must complete the background check required by the Texas Health and Human Services Commission as required by section 745.605 of the Texas Administrative Code, to determine whether a person has any criminal history or abuse and neglect history that may pose a risk to the health and safety of children.
2. Child Care Facilities must ensure criminal background checks are conducted prior to permitting an individual to work or spend time at the facility, or who will regularly or frequently be present at the facility while children are in care.

D. Responsibilities of the Employing Department

1. The Employing Department shall ensure that criminal history background checks on all Applicants are completed by the Background Check Department prior to the Applicant's first day of employment.
2. The Employing Department must make any offer of employment contingent upon the Applicant's successful criminal history background check.

E. Collection and Use of Criminal History Information

1. Criminal History Information will be collected and referred to the appropriate Background Check Department for making decisions regarding employment, who may participate in university programs 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.
2. An individual required to register as a sex offender in any jurisdiction is not 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.

3. 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 expunged or sealed by a court, and may deny the occurrence of a Disposition that is the subject of an expunction or sealing order.

F. Evaluation of Criminal History Information

1. 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:

- a. the specific duties of the position,
- b. the number of offenses committed,
- c. the nature and seriousness of each offense,
- d. the length of time between the offense and the employment decision,
- e. the efforts by the Applicant or Security-Sensitive Person at rehabilitation, and
- f. the accuracy of the information provided in the Applicant or Security-Sensitive Person's employment application.

G. Retention and Disposition of Records

1. 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.
2. Criminal History Information that does not constitute Criminal History Record Information will be retained in accordance with the University's record retention policy.

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

1. 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.
2. 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.
3. 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.

I. Compliance

Persons violating this policy may be subject to disciplinary action to include termination of employment, enrollment, on-campus housing, or business relationship.

V. References and Cross-References

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)

[Texas Administrative Code § 745.605](#)

[Texas Civil Practices and Remedies Code § 81.003](#)

[Texas Education Code § 51.215](#)

[Texas Government 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](#)

[UNT Policy 04.010 Reporting Suspected Abuse and Neglect of Children, and Elderly or Disabled Individuals](#)

[UNT Policy 04.025 Youth Protection Program](#)

VI. Revision History

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