

UNIVERSITY RULE

33.99.14.M1 Criminal History Record Information - Employees and Candidates for Employment

Approved January 25, 2000

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Rule Statement

Texas A&M University shall perform criminal background history checks of all candidates for employment at the University. Texas A&M may perform checks on existing employees as provided by this rule.

Reason for Rule

To promote the safety and welfare of employees, students and the general public, preserve state property, and uphold the reputation and integrity of the University for the citizens of Texas. The information obtained shall be used to make employment decisions affecting the candidate for employment or employee as provided by this rule.

Definitions for purpose of this rule

Appropriate University Office (AUO): Texas A&M Faculty Affairs (FA) for faculty positions, Student Organization Development and Administration in the Department of Student Activities for camp workers, and Texas A&M Human Resources and Organizational Effectiveness (HROE) for all other positions.

For Texas A&M Health Science Center (TAMHSC) entities, the AUO for all positions will be HROE. HROE will consult with TAMHSC leadership as needed for cases that require decisions by the Vice President for Human Resources and Organizational Effectiveness (VPHROE).

For Texas A&M University at Galveston (TAMUG), the AUO for all positions, with the exception of faculty positions and camp workers (including camp volunteers) will be HROE. HROE will consult with TAMUG leadership as needed for cases that require decisions by the VPHROE.

Candidate for employment – An applicant who has been provided a conditional offer of employment.

Procedures and Responsibilities

1. COLLECTION OF CRIMINAL HISTORY RECORD INFORMATION

- 1.1 HROE shall collect or enable the collection of criminal background information for candidates for employment (as defined in System Regulation 33.99.14 and this rule) and employees, with appropriate vendors as authorized and necessary. The AUO will analyze all relevant background information relative to the position requirements. See Section 2 for actions if there is a finding of criminal history record information. Any decision not to hire a candidate for employment must comply with System Regulation 33.99.14.
- 1.2 An offer to a candidate for employment is pending until the completion of the criminal background check, and thus no one can be placed in a position, until the background information has been collected and processed as required by the AUO.
- 1.3 Existing employees may have criminal history record information gathered only after the AUO has approved the collection of this information and when the employee:
 - 1.3.1 holds a position for which the specific duties of the position require it; or
 - 1.3.2 allegedly violates a rule or procedure at Texas A&M, or a policy or regulation of The Texas A&M University System, and the criminal history information is, in good faith, believed necessary to shed light about the substance of the allegation. Background character information may not be sought under this provision.

2. ACTIONS IN THE CASE OF A FINDING OF CRIMINAL HISTORY RECORD INFORMATION

- 2.1 The AUO will analyze the relevant criminal background history information relative to the position requirements. In these reviews, the AUO must assure that the candidate for employment or employee is notified of the finding prior to any discussion of the finding with the current or prospective unit of employment. The candidate for employment or employee must be given an opportunity to provide correct information if he or she can substantiate that the history check is in error, or he or she may provide contextual information as he or she deems relevant. If criminal history record information remains, the AUO will discuss the findings of the criminal history check and the information gathered from the candidate for employment or employee with:
 - a) the designated contact in FA for faculty, or

- b) the current hiring supervisor or designated Security Contact Person for all other employees or candidates for employment.

2.2 In accordance with Texas A&M System Regulation 33.99.14 (particularly section 6) the AUO will render a decision concerning either approval to hire for candidates for employment, or the initiation of the process to sanction, up to and including separation from the University, for existing employees. Rules for appeals by hiring units, not candidates for employment, are presented in section 4 of this rule. Existing employees may appeal a decision or sanction in accordance with University Rule 12.01.99.M1 or SAP 12.99.99.M0.01 (if an existing faculty member) or SAP 32.01.02.M0.01 (if an existing non-faculty employee). If a candidate for employment has a conviction for any of the offenses listed in 2.3 of System Regulation 33.99.14 and the department/unit still wishes to hire the candidate for employment, approval to do so must be given by the VPHROE or Vice Provost for Faculty Affairs (VPFA).

3. CANDIDATE FOR EMPLOYMENT AND EXISTING EMPLOYEE RESPONSIBILITIES TO INFORM SUPERVISORS OF ARRESTS

3.1 The University is strongly committed to the principle that an individual is innocent unless proven guilty. All candidates for employment and existing employees must inform either the AUO or their supervisor within 24 hours of any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine that occur after the approval of this rule. If circumstances prevent this, as soon as the situation allows notification the candidate for employment or employee must provide both explanation for the delay as well as notification of the criminal arrest or charge or criminal conviction to either the AUO or their supervisor.

3.2 If a Texas A&M investigation is warranted based on a possible violation of Texas A&M System policies or regulations and the factors presented in section 6.2.1 of System Regulation 33.99.14, or university rules or procedures, the investigation will be conducted in accordance with existing rules for investigations of such violation. For candidates for employment who are not existing employees, a determination will be made by the VPHROE or VPFA or designee as to whether conviction for such an arrest would make the candidate for employment unsuitable for the position, and only if this would be the case, whether a delay in the hiring process is warranted pending final resolution by the judicial system. At no time will guilt be inferred or assumed solely as a result of the arrest.

3.3 If the VPHROE or VPFA or designee is unable to determine that the candidate for employment or employee actually engaged in the misconduct, any rejection of the candidate for employment or discipline or dismissal of the employee cannot be based on the criminal charge or arrest.

4. APPEALS

4.1 See Regulation 33.99.14 Section 7 for appeal process.

5. CONFIDENTIALITY

HROE is authorized to gather information on criminal history records and sex offender status and to share this information with appropriate university offices as described in this rule. However, Texas A&M respects the privacy of its employees and candidates for employment and strictly prohibits the disclosure of any information obtained by any individual under this Rule to persons other than those authorized by the Rule itself. It is a criminal offense to knowingly or intentionally obtain criminal history record information in an unauthorized manner, use the information for an unauthorized purpose, or disclose the information to a person who is not entitled to the information, provide a person with a copy of his or her criminal history record information obtained from the Texas Department of Public Safety (DPS) Crime Records Service-Secure Site, or violate related DPS rules.

Related Laws, Policies, Regulations, Rules and Procedures

[Tex. Gov't Code Chapter 411, Subchapter F](#)

[Tex. Educ. Code § 51.215](#)

[System Policy 12.01, Academic Freedom, Responsibility and Tenure](#)

[System Policy 32.02, Discipline and Dismissal of Employees](#)

[System Regulation 32.01.01, Complaint and Appeal Procedures for Faculty Members](#)

[System Regulation 32.01.02, Complaint and Appeal Process for Nonfaculty Employees](#)

[System Regulation 32.02.02, Discipline and Dismissal of Nonfaculty Employees](#)

[System Regulation 33.99.01, Employment Practices](#)

[System Regulation 33.99.14, Criminal History Record Information - Employees and Candidates for Employment](#)

[University Rule 12.01.99.M1, University Statement on Academic Freedom, Responsibility, Tenure and Promotion](#)

[University SAP 12.99.99.M0.01, Faculty Grievances Procedures not Concerning Questions of Tenure, Dismissal or Constitutional Rights](#)

[University SAP 32.01.02.M0.01, Complaint and Appeal Procedure for Non-Faculty Employees](#)

Forms

[Criminal Background Check Request Form](#)

Contact Office

OFFICES OF RESPONSIBILITY:

[Human Resources and Organizational Effectiveness](#)

[Faculty Affairs](#)