Texas Woman's University
University Regulation and Procedure

Regulation and Procedure Name:	**Criminal Background Checks**
Regulation and Procedure Number:	**URP: 05.255**
Policy Owner:	**Finance and Administration**

POLICY STATEMENT

Texas Woman's University ("TWU" or “University”) is committed to providing a safe and secure workplace for all University constituents, including students, employees and guests. The University must take meaningful actions to protect its funds, property, and other assets. To achieve these objectives, criminal background checks are conducted on all faculty, staff, and student employee candidates before or contingent upon a job offer being made. The purpose of this policy is to outline procedures for criminal background checks for employees and applicants.

APPLICABILITY

This policy is applicable to TWU Employees and Employment Applicants.

DEFINITIONS

1. "Criminal Background Check" means criminal history record information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions in every jurisdiction where the applicant or employee currently resides or has resided in the past seven (7) years.

2. "Employee" means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or who is required to be a student as a condition of employment, undergraduate or graduate.

3. "Employment Applicant" means any individual who has applied for a specific position that the University has acted to fill, has followed the University's standard procedures for submitting applications, and has indicated an interest in the position. This includes student employment applicants.

4. "Falsified Application or Background Packet" means an employment applicant provides false information or fails to provide the facts requested

in the application or background packet completed during the employment application process.

5. "Security-Sensitive Position" means any position where the employee has direct interaction with students, is required to handle currency on behalf of the University, works in a location designated as security sensitive, is required to live on-campus as a condition of employment, has access to a University computer system, has access to the personal information of another person, has access to financial information, or has access to a master key. This policy designates all TWU positions as security-sensitive and establishes the guidelines to fill these positions.

REGULATION AND PROCEDURE

I. Criminal Background Check Required

A. A criminal background check must be conducted on any external applicant who is under final consideration, following TWU's screening and selection processes, for any position of employment with TWU, including rehired employees with a break in service from TWU.

B. Where State or federal law requires that a position be subject to a criminal background check using a specific source of criminal background check information and certain procedures, TWU will comply with such laws.

C. TWU requires that contracted agencies conduct satisfactory criminal background checks on all employees placed through contracted agencies when these individuals or employees will perform duties or services for TWU.

D. The criminal background check must include a sex offender registration check.

II. Job Postings

All job postings with job descriptions will include a statement stating the position is security-sensitive and that TWU is authorized to obtain a criminal background check.

III. Conducting a Criminal Background Check

A. A criminal background check will not be performed until the employment applicant completes and signs the Notififcation and Authorization to Obtain (“NAO”) information liability release form and the DPS Computerized Criminal History (“CCH”). An employment applicant who fails to complete, sign, and submit the forms will be removed from further consideration for the position.

B. TWU will conduct the criminal background check before the hiring official makes the employment offer. However, if circumstances require that an offer of employment be made before the completion of the criminal background check, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation.

C. The criminal background check should include states where the employment applicant has resided during the period of no less than seven (7) years immediately preceding the date the individual signed the Criminal Background Check Form.

D. Any or all of the following background check sources may be used, as appropriate, on employment applicants:

1. The Texas Department of Public Safety ("TxDPS") Crime Records Service – Secure Site.

2. A private vendor that offers national criminal background check services.

3. Other state, national, and international sites.

IV. No Automatic Disqualification for Criminal Background

A. The existence of a conviction does not automatically disqualify an individual from employment. OHR will make the determination whether an employee or candidate with a criminal history is deemed ineligible for hire.

B. Relevant considerations when reviewing criminal history may include, but are not limited to:

1. Nature and number of the convictions;

2. Length of time intervening between the conviction and the employment decision;

3. Employment history;

4. The relationship that a crime has to the specific duties and responsibilities of the position;

5. Rehabilitative efforts that have been made since the conviction; and

6. Accuracy of the information that the individual provided on the employment application.

C. Request for an exception to retain an employee or hire a candidate with a criminal history that deems them ineligible for hire.

1. If OHR makes the determination that the employee or candidate is “ineligible for hire” and the hiring department disagrees with this recommendation, a request for an exception to retain or hire may be submitted to OHR for review by the appropriate vice president or division head.

2. OHR will review the written exception request and engage in consultation with the appropriate vice president or division head. OHR will make the final determination and then notify the hiring department of the decision.

V. Falsified Application or Background Packet

Falsification of an application or background packet, including the omission of criminal record information, is grounds to reject an employment applicant or discipline, up to and including, termination of the employee.

VI. Criminal History Obtained from a Third-Party Agency

A. When TWU obtains a criminal background report on an employment applicant from a third-party agency other than another law enforcement agency (local, state, county, or federal), or another state agency such as the Texas Department of Public Safety, the University must comply with the requirements of the Fair Credit Reporting Act (“FCRA”) as detailed below:

1. As required by the Fair Credit Reporting Act (“FCRA”), in the event the decision is not to hire the candidate, the Office of Human Resources (“OHR”) will notify the candidate of the intention to deny them employment based on their third-party criminal background report and enclose a copy of the candidate's criminal background report, as well as the statement of rights under FCRA.

2. The employment applicant will be provided five (5) business days from the date of the notice to explain or refute the information included in the report. If appropriate justification is submitted, OHR may request that the employment applicant's file be reconsidered for employment; otherwise, the employment applicant will be notified that their employment application was denied and that the decision was influenced in whole or in part by the third-party criminal background report received as part of their background check.

3. If there is a decision to extend a job offer to an individual with a criminal history that has been deemed ineligible for hire by OHR, a Hiring Exception Form is required to be approved and signed by the appropriate Vice President or Division Head.

VII. Self-Reporting

A. Employment Applicants

1. Employment applicants must report in writing any criminal complaint, information, indictment, no contest plea, guilty plea, deferred adjudication, or convictions (and whether registered as a sex offender or will be required to register as a sex offender), excluding traffic offenses punishable only by fine, occurring within five (5) business days after the date of application.

B. Current Employees

1. In accordance with URP 05.600: Staff Standards of Conduct and Disciplinary Process, an employee must notify their immediate supervisor of any arrest, indictment, conviction, or other adjudication for any felony or offense of moral turpitude (including offenses involving dishonesty, fraud, deceit, theft, misrepresentation, deliberate violence) no later than five (5) business days after such arrest, indictment, conviction, or other adjudication.

C. Department Responsibility

1. When a department receives a self-report as required under this section, the department must provide the information to OHR and consult about the individual's suitability for the position.

VIII. Retention of Criminal Background Check Records

Criminal background check records will be maintained in accordance with the University's records and retention schedule and TxDPS requirements. Records will not be released or disclosed to any person or agency except the Office of General Counsel or as required by law.

IX. Other Criminal Background Checks

Existing employees may have criminal history record information gathered when the employee: holds a position for which the specific duties of the position require or allegedly violates a rule or procedure at TWU, or a policy or regulation of TWU, and the criminal history information is, in good faith, believed necessary to shed light about the substance of the allegation.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

Texas Government Code, Section 411.082

Summary of Rights under the FCRA

URP 05.600: Staff Standards of Conduct and Disciplinary Process

FORMS AND TOOLS

Notification and Authorization to Obtain Information (NAO)

Hiring Exception Form

Publication Date: 07/02/2021

Revised: 01/13/2023