

Texas Woman's University University Regulation and Procedure

Regulation and Procedure Name: Background Investigations, Employment and Credential Verifications, and Reference Checks

Regulation and Procedure Number: URP: 05.255

Policy Owner: Finance and Administration

POLICY STATEMENT

Texas Woman's University ("TWU") is committed to providing a safe and secure workplace for all university constituents, including students, visitors, and employees. It is also important that the university take meaningful actions to protect its funds, property and other assets. In order to achieve these objectives employment background investigations are conducted on all regular, temporary and adjunct faculty, staff, graduate assistants, graduate teaching assistants, graduate research assistants, and student employment candidates prior to or contingent upon a job offer being made. The purpose of this document is to outline TWU's policy and procedures for employment background investigations, verification of credentials, criminal background checks and employment related reference checks.

APPLICABILITY

This policy is applicable to TWU Student Employees, Faculty, and Staff.

DEFINITIONS

1. "Criminal Background Check" means the selected applicant or employee's criminal background in every jurisdiction where the applicant or employee currently resides or has resided in the past 10 years. Based on past residence jurisdiction, criminal background checks may include one or more of the following sources:
 - a. Texas Department of Public Safety and when necessary, specific Texas county record checks (through the use of a third-party firm).
 - b. Third-party firm: an agency that conducts county record checks and National Criminal Database checks. Note: The National Criminal Database check also contains a multi-state sex and violent offender registry check.

- c. Other public investigative sources as deemed necessary for the investigation, for example: local or county court systems, and county sex offender lists.
2. “Educational Verification” means the selected applicant or employee possesses all educational credentials that qualify the individual for the position sought (listed as a requirement on the job description). In addition, education beyond the high school level that is provided on the application or resume that exceeds the job description requirement may be verified.
3. “Employment Verification” means applicant has prior work history, ensures the selected applicant worked in the positions listed on the application or resume during a period of seven (7) years, where possible to include a minimum of three positions, immediately preceding application at TWU. This verification will include factual data such as the date of hire, date of termination, job title and salary of last position held.
4. “Falsification of Application Packet” means providing false information or failing to give the facts as requested in the application packet may result in failure to hire, or if employed: action up to and including termination of employment. The applicant's signature on the forms attest to the fact that all the information provided is true to the best of his/her knowledge.
5. “License or Certification Verification” means ensures the selected applicant or employee possesses all the licenses and/or certifications required on the job description. This includes any motor vehicle driver’s license requirements for the specified position. In addition, license or certifications beyond that provided on the application or resume that exceeds the job description requirement may be verified.
6. “Reference Check” means verification of references listed on TWU Reference Check Form is required of all applicants. A minimum of three (3) work related references are required to be contacted for the final selected candidate. Refer to the Search and Selection Handbook, Checking References for information on conducting the work related reference checks.
7. “Employment Decision Guidelines for Applicants with Prior Convictions” means a TWU guide to employment for applicants with convictions considering all “Green” factors as required by EEOC. (Also known as the Decision Guidelines).

REGULATION AND PROCEDURE

I. Background Investigation

- A. Prior to or contingent with a job offer being made, the Office of Human Resources (“OHR”) conducts a background investigation, including a criminal background check, prior employment, credential verification and reference checks on all new faculty (including visiting faculty), staff (regular full-time/ part-time and hourly) applicants, rehired employees (with a gap in service) by using one or more of the methods identified in Definitions section of this policy.
- B. Additionally, the Office of Human Resources in conjunction with the appropriate offices ensures that background investigations are performed for all temporary employees, adjunct faculty, on-call, honorary and seasonal employees working in academics. The Graduate School is responsible to assure that all required background checks are performed for graduate assistants, graduate teaching assistants, and graduate research assistants.
- C. The Office of Human Resources in conjunction with the Procurement Office ensures that contracted temporary agencies conduct satisfactory background checks, including criminal background, on all temporary employees placed through temporary agencies.
- D. Career Services conducts background checks on all in-state student employment candidates through the Texas Department of Public Safety and a background screening agency for out-of-state candidates.

II. Employment References and Credentials

- A. If applicant has prior work history, this includes contacting and verifying prior employment, where possible a minimum of three previous employers following the guidelines in the Search and Selection, Guide for Recruitment, Interviewing, Selection and Diversity. All responses should be documented for consideration both positive and negative.
- B. The person responsible for checking employment references for an applicant should include the following in their questions to previous employers: **“Is there any reason this person is not eligible for rehire at your organization?”** This question is asked because legally an organization must share any information about a previous employee that might indicate the person could present a danger to themselves or to other employees.
- C. HR recruitment personnel will complete verification of an applicant’s educational credentials. An applicant can satisfy this requirement by providing “official” copies of all transcripts/diplomas. Otherwise HR recruitment personnel will verify the applicant’s educational credentials using the pre-signed Notification and Authorization to Obtain Information (“NAO”) form.

III. Criminal Background Investigations

- A. Criminal Background Checks will normally be completed before making an offer of employment or appointment to an individual but a job offer, with the approval of OHR, may be made contingent upon the results of the background checks. All interviewed candidates will complete and sign the Notification and Authorization to Obtain (NAO) information liability release form and the DPS Computerized Criminal History (“CCH”) with the employment application packet. The CCH form is used for in-state criminal history checks and the NAO is used for out-of state criminal history checks.
- B. The existence of a conviction does not automatically disqualify an individual from employment. Relevant considerations may include, but are not limited to, the nature and number of the convictions, the time since the dates of the convictions, the relationship that a crime has to the duties and responsibilities of the position, age of the applicant at the time of the conviction and any rehabilitative efforts that have been made since the conviction.
- C. If the criminal background check indicates that there are no convictions, the Office of Human Resources will move forward with the offer or notify the search committee/ hiring manager that the background check is satisfactory.
 1. If **undisclosed** convictions are revealed in the criminal background check, the offer of employment will not be extended until such time as the applicant can present valid reasons for the non-disclosure. A recommendation to hire or to reject or terminate an individual with an unreported conviction will be made by the Associate Vice President of Human Resources and divisional Vice President based on statement of reason provided by the applicant. (To the extent that the law allows: all related information will be treated as confidential, and protected as such.)
 2. If **disclosed** convictions in the application are confirmed, the Office of Human Resources will determine if the crime is related to the nature of the job or work that the applicant would be performing. The applicant is notified of a possible negative report and is given opportunity to present evidence or documents concerning the conviction. Evidence may consist of, but not limited to:
 - a. Parole or pardon records
 - b. Length of time since conviction or release
 - c. Nature of crime and any extenuating circumstances such as age,

- d. Rehabilitative efforts, and
 - e. Work history since conviction in occupations related to the one for which they are applying.
3. Due consideration of all evidence is performed according to the Criminal Background Decision Guidelines. The Office of Human Resources with the hiring department will jointly review each conviction as it relates to the Guidelines, including any additional information that the individual provides, before the offer of employment is confirmed or withdrawn. A Hiring Exception Form that requires the **Supervisor, Divisional Vice President and the Associate Vice President for Human Resources to all agree and approve** to extend a job offer to an individual with a conviction that has not met the criteria in the Decision Guidelines.

IV. Fair Credit Reporting Act (FCRA)

- A. According to the federal Fair Credit Reporting Act (“FCRA”) any information obtained from a third party screening company is subject to FCRA compliance requirements, as enforced by the Consumer Financial Protection Bureau, including providing notice to individuals that they will be the subject of background screening and obtaining their authorization to perform such screening. If the decision is made to use a third party agency to perform the county and national database search, applicants will be provided with a written disclosure (a separate document) and TWU will obtain a written authorization from the applicant prior to requesting the background report.
- B. If adverse employment action will be taken based in whole or in part upon a third-party report, TWU will provide two notices to the applicant before and upon actually taking the adverse action.
- C. Before the action the applicant will be provided with a notice of possible negative action including:
 - 1. A copy of the report obtained from the third party service provider and
 - 2. A Summary of Rights under the FCRA
- D. After providing this information, the applicant, under Federal law, has five days to identify inconsistencies or inaccuracies in the report. If adverse action is taken, based on information received under the regulations of the FCRA, the university will provide the applicant or employee with:
 - 1. Notice of the adverse action taken.

2. The name, address and toll-free number of the reporting agency that furnished the report.
3. A statement that the reporting agency did not make the decision to take the adverse action and is unable to provide the applicant the specific reasons why the adverse action was taken.
4. Notice of the applicant's right to obtain a free copy of the report from the reporting agency within 60 days.
5. Notice of the applicant's right to dispute the accuracy or completeness of any information in the report furnished by the reporting agency.

E. In the event that the results of the background check influences a decision to withdraw an employment offer or terminate employment and is based on a reason other than a report obtained under FCRA regulations, notice of the decision will issued by the Office of Human Resources for staff or faculty positions.

V. Student Employment Candidates (Career Services only)

All interviewed student candidates will complete and sign the Notification and Authorization to Obtain Information and the DPS Computerized Criminal History (CCH) form with the student employment application packet obtained in the Career Services Department.

- A. The existence of a conviction does not automatically disqualify an individual from employment. Relevant considerations may include, but are not limited to, the nature and number of the convictions, their dates, and the relationship that a conviction has to the duties and responsibilities of the position.
- B. If the criminal background check indicates that there are no convictions, Career Services will move forward with the offer or notify the hiring manager that the background check is satisfactory.
- C. If **undisclosed** convictions are revealed in the criminal background check, the offer of employment will not be extended and, if employed, the individual may be terminated, unless the individual shows that the report is in error. Career Services will notify the department, send the information to the Office of Human Resources for consideration, and send the student a Pre-Adverse Action Notice. A recommendation to reject or terminate an individual with an unreported conviction will be made within the Office of Human Resources and forwarded to Career Services and to the hiring department, via e-mail, in a memo format. OHR will send the student applicant a Notice of Adverse Action. To the extent that the law allows: all related information is treated as confidential, and protected as such.

- D. If **disclosed** convictions in the application are confirmed, the Office of Human Resources will review the report in response to Career Services request and refer to the Criminal History Decision Tree to assess the employment eligibility of the applicant. A recommendation on the individual's employment eligibility will be made within the Office of Human Resources and the determination made and forwarded to Career Services and the hiring department via e-mail, in a memo format. OHR will send the student applicant a Notice of Adverse Action.
- E. If information concerning a criminal conviction is returned during a check, Career Services will issue a Pre-Adverse Action Notice, notify the department of the situation, verify the job duties and responsibilities for the student employee and notify the Office of Human Resources.
- F. Due consideration of all evidence is performed according to the Criminal Background Decision Guidelines. After obtaining job related information from the department and Career Services, Human Resources will review each conviction as it relates to the Guidelines, including any additional information that the individual provides, before the offer of employment is confirmed or withdrawn.
- G. For continued employment of a student worker, a Student Exception Form requiring the **Supervisor, Divisional Vice President and the Associate Vice President for Human Resources to all agree and approve** to extend a job offer or to continue the employment of an individual with a conviction that has not met the criteria in the Decision Guidelines.
- H. In the event that the results of the background check influences a decision to withdraw an employment offer or terminate employment, the Office of Human Resources will inform the individual for student employment positions.
- I. If the decision is based on information obtained under FCRA regulations, the procedure covered above will be used.

VI. Graduate Student Employment

Graduate Assistants, Graduate Research Assistants and Graduate Teaching Assistants complete hiring packets in OHR. After obtaining signatures on the authorization forms, the OHR performs the criminal history background check. Other reference checking is performed by the hiring departments.

VII. Violations

Violations including providing false or misleading information for any of the above employment verification, reference checks or background checks, will be handled in accordance with applicable University policies and procedures; which may include disciplinary actions up to and including termination from the University.

VIII. Applicant/Employee Appeals

- A. Applicable for Faculty and Staff Candidates (includes graduate assistants, graduate teaching assistants, graduate research assistants, temporary staff and adjunct faculty):
- B. When the results of the background check influences a decision to withdraw an employment offer or terminate employment, the Office of Human Resources will inform the applicant. An appeal regarding the withdrawal of an employment offer as a result of a background check in violation of the convictions matrix may be made within 30 calendar days from the applicant/employee. The appeal should be made to the Manager of Recruitment and Selection and the final determination will be made by the Associate Vice President of Human Resources and divisional Vice President.
- C. All other forms of inquiry or appeal regarding employment eligibility presented to Career Services by the individual and/or the hiring department will be forwarded to the Office of Human Resources. From that point, all discussion will then be handled between the Office of Human Resources, the individual, and/or the hiring department. If a determination is made that changes the employment eligibility of the individual, the Office of Human Resources will forward the determination to Career Services, via e-mail, in memo format.

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

[Search and Selection Handbook](#)

[Student Guide to On-Campus Employment](#)

[Summary of Rights under the FCRA](#)

[Criminal History Decision Tree](#)

[Pre Adverse Action Notice](#)

[After Adverse Action Notice](#)

FORMS AND TOOLS

[Notification and Authorization to Obtain Information \(NAO\)](#)

[Student Worker Exception Form](#)

<p>Publication Date:</p> <p>Next Review:</p>
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