

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: Human Resources

NUMBER: 02.A.37

AREA: General

SUBJECT: Background Checks for Employees

1. PURPOSE

- 1.1. The University of Houston System (System) is committed to promoting a safe and secure environment at all of its component universities. To that end, this policy sets forth requirements for background checks for employment and to provide guidelines for the hiring of employees as prescribed by [Section 51.215](#) of the Texas Education Code.
- 1.2. This policy is applicable to all positions, full and part-time, permanent and temporary, as well as student employment in all university programs, regardless of funding source. Each component campus shall adopt and include operating procedures for the administration of background checks.

2. POLICY

Criminal Background Checks are required. The System and component campuses must obtain criminal background checks, at a minimum, in the following situations.

- 2.1. Statutorily Required Criminal Background Check: Where State or federal law requires that a position/individual be subject to a criminal background check using a specific source of criminal background check information and/or certain procedures, the System and its component universities will comply with such laws. To the extent such laws impose criminal background check requirements that are more extensive or substantially similar, the System and its component universities may rely on compliance with the statute to satisfy the requirements of this policy.
- 2.2. Applicants for Employment: A criminal background check must be conducted on any applicant, internal or external, who is under final consideration, following normal screening and selection processes, for employment, whether for a full-time, part-time, regular, or temporary position of employment. The component campuses must receive an authorization form signed by the applicant before the institution requests the check. The format of the authorization form must be specified in the component campuses procedural guidelines.

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

- A. The Texas Department of Public Safety (DPS) Crime Records Service – Secure and/or Public Site; or
- B. A private vendor that offers national criminal background check services; or
- C. Other state or nationally recognized sources.

2.3. Current Employees: A criminal background check must be conducted on:

- 2.3.1. Current employees who apply for and are considered for a vacant position will require a criminal background check.
- 2.3.2. Current employees who have not submitted to a criminal background check pursuant to [SAM 05.C.01](#), must do so prior to working at a Campus Program for Minors.

2.4. Child Care Centers and Programs for Minors: In addition to complying fully with all applicable state and federal laws relating to criminal background checks, the following provisions apply to all child care centers operated by, on the property of, or in the facilities of the System and component campuses.

- 2.4.1. Child Care Centers Fingerprint Checks: Child care centers shall ensure that criminal background checks are conducted prior to permitting the individual to work or spend time at the center and at least every two years thereafter for employees.
- 2.4.2. The center will process the check so that the following criminal background check sources are used as appropriate:
 - A. Texas Department of Public Safety (DPS) name and Federal Bureau of Investigation fingerprint-based criminal background check.
 - B. Department of Family Protective Services (DFPS) central registry check.
- 2.4.3. Pursuant to [SAM 05.C.01](#), criminal background checks are required on employees or volunteers working at a Campus Program for Minors. Background checks are not required on minors or component university students working at a campus program in fulfillment of required class work unless otherwise required by law.

- 2.5. Motor Vehicle Record Checks: Component universities are also required to conduct motor vehicle record checks, prior to extending an offer of employment, to anyone required to operate a component university owned or leased vehicle and annually thereafter for anyone authorized to operate a vehicle that is owned or leased by the component university, as outlined in University of Houston [System Administrative Memorandum \(SAM\) 01.C.13, Business Use of Vehicles](#).
- 2.6. Other Background Checks: Component universities may conduct other background checks, such as employment and educational history, credit report, or finger printing for all vacant positions.
- 2.7. The policy of the University of Houston System and its components is to ensure equal opportunity in all its educational programs and activities, and all terms and conditions of employment without regard to age, race, color, disability, religion, national origin, veteran's status, genetic information, or sex (including pregnancy), except where such a distinction is required by law. Additionally, UH System prohibits discrimination in all aspects of employment and educational programs on the basis of sexual orientation, gender identity, or gender expression. For the UH System's Official Non-Discrimination Statement, see [SAM.01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).

3. POLICY PROVISIONS

- 3.1. After selection of the final candidate, the hiring authority must contact the component university human resources department to request a complete criminal background check of the selected applicant. Any job offer must be specified as conditional until successful completion of this investigation.
- 3.2. The criminal history record investigation will be conducted by either the component university chief of police or another appropriate authority. All data obtained in the criminal history record investigation will be privileged and confidential to the fullest extent permitted by applicable law. This information will be maintained by the investigating authority, and will not be released or otherwise disclosed to any other person or agency except as provided herein or unless required by law.
- 3.3. Either the component university chief of police, or other designated authority, will report to the component university chief human resources officer, or designee, that the applicant has “no criminal history” or has a “positive criminal history” and will provide information as to the nature of any positive criminal history.
- 3.4. The component university chief human resources officer, or designee, will evaluate any positive criminal history against job-related criteria and will make a recommendation as to whether the applicant is “employable” or “not recommended for employment.” An applicant with no criminal history will be recommended as “employable.”

- 3.5. If the applicant is “not recommended for employment,” the component university chief human resources officer will issue a report to the hiring authority, who may accept the recommendation and reject the employment of the applicant, or may request permission to hire. A request for permission to hire will be submitted to the appropriate vice president through the component university procedures. Only the appropriate vice president can authorize hiring someone with a positive criminal history who the chief human resources officer, or designee, has designated as “not recommended for employment.”
- 3.6. The appropriate vice president will notify the component university chief human resources officer of the hiring decision. The chief human resources officer will, in turn, notify the designated hiring authority. The hiring authority will either proceed with finalization of the hiring process, or not hire the applicant.
- 3.7. Criminal History Information Obtained From a Third Party Agency - When the component university obtains criminal history on an 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 component university must comply with the requirements of the [Fair Credit Reporting Act \(FCRA\)](#) as detailed below.
- A. In the event the decision is not to hire the applicant, the chief human resources officer will notify the applicant of the component university’s intention to deny him/her employment, based in whole or in part on his/her consumer report, as required by the FCRA and enclose a copy of the applicant’s criminal history report, as well as a statement of rights under the FCRA.
- B. The applicant will be provided five working days from the date of the notice to explain or rebut the information included in the report. If appropriate justification is submitted, the component university chief human resources officer may request that the applicant’s file be reconsidered for employment; otherwise, the applicant will be notified that his/her application for employment was denied, and that the decision was influenced in whole or in part by the consumer report received as part of their background check. The applicant will also be notified that he or she may obtain a copy of the criminal history report at no charge directly from the third party that provided the criminal history report to the University.
- 3.8. Any breach of confidentiality at any point in the process defined herein may be grounds for disciplinary action, up to and including termination.

4. PROCUREMENT AND MAINTENANCE OF RECORDS

- 4.1. The criminal history record information request shall be handled by the component university chief of police, or other appropriate authority, who will be responsible for the confidentiality of the information.
- 4.2. If criminal history record information on the individual does not exist, information obtained during the investigation will be kept by the component university chief of police, or other appropriate authority, and destroyed by the appropriate authority (or directly by the chief of police in the event the criminal history information is obtained from the Texas Department of Public Safety) after two years of the personnel action. See [41 C.F.R. § 60-1.12](#); and [Texas Government Code § 411.094](#).
- 4.3. Details of positive criminal history record investigation checks will be communicated/accessed in a confidential manner, and will only be reviewed by authorized individuals in Human Resources, Legal Counsel, the appropriate Vice President, or Texas DPS auditors. Such records will be located as specified in Section 3.2, maintained for a period of two years, and then destroyed by an appropriate authority (or directly by the component university chief of police in the event the criminal history information is obtained from the Texas Department of Public Safety). See [41 C.F.R. § 60-1.12](#) and [Texas Government Code § 411.094](#).

5. REVIEW AND RESPONSIBILITIES

Responsible Party: Associate Vice Chancellor for Human Resources

Review: Every five years on or before December 1

6. APPROVAL

Approved: Jim McShan
Senior Vice Chancellor for Administration and Finance

Paula M. Short on Behalf of Renu Khator
Chancellor

Date: July 6, 2016

REVISION LOG

Revision Number	Approval Date	Description of Changes
1	02/23/1996	Initial edition
2	06/12/2015	Applied revised SAM template and added new Revision Log. Changed title of SAM from “Security Sensitive Positions” to “Background Checks for Employees.” Added student employment to policy in Section 1.2. Rewrote Section 2 to emphasize the operating procedures for administration of criminal background checks. Removed Section 3.1. In Section 3.5, changed CEO to appropriate vice president. Added information to Section 3.8 on Fair Credit Reporting Act (FRCA) procedure. Updated Sections 4.2 and 4.3 on maintenance of records for two years and procedure for destroying data. Added references to 41 C.F.R Section 60-1.12 and Texas Government Code Section 411.094 to Sections 4.2 and 4.3. Changed responsible party to Associate Vice Chancellor for Finance. Changed review period from annually on or before September 1 to every five years on or before December 1 st . Added Interim Vice Chancellor for Administration and Finance to approval process
3	07/06/2016	Updated Section 2.7 with GENDA/Title IX statement per U.S. Department of Education’s Office of Civil Rights requirements. Changed responsible party from Associate Vice Chancellor for Finance to Associate Vice Chancellor for Human Resources. Updated titles and links as appropriate