

UNIVERSITY of HOUSTON
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Recruitment and Employment

Number: 02.03.05

SUBJECT: Security Sensitive Positions
--

I. PURPOSE AND SCOPE

This policy outlines the University of Houston guidelines governing designation of certain positions as security sensitive in accordance with [Section 51.215](#) of the Texas Education Code and the process for hiring into these positions. This policy applies to all positions, full and part-time, permanent and temporary, in all university programs, regardless of funding source, when that job is considered security sensitive or when the employee will be working in an area designated as security sensitive. The policy and procedure apply to both internal and external candidates for these positions.

II. POLICY STATEMENT

The University of Houston has designated as "security sensitive" certain positions of special trust. Generally, these are positions in which employees have access to or control of activities, systems, and/or resources that are subject to misappropriation, malicious mischief, damage, and/or loss or impairment of communications or control. As provided by this document, the university shall obtain criminal history record information related to applicants for positions designated "security sensitive."

III. DEFINITIONS

- A. Criminal history record investigation (CHRI): An investigation into official public records to determine the existence or non-existence of a record of any criminal charge(s).
- B. Security sensitive positions: Those positions of special trust as defined and designated through the guidelines outlined herein. A criminal history record investigation must be conducted on applicants for those positions (including current employees applying for transfers and promotions).
- C. Negative criminal history record: For the purposes of this MAPP, either no criminal history record, or a record that indicates charge(s) dismissed or a finding of not guilty.
- D. Positive criminal history record: For the purposes of this MAPP, a criminal history record that indicates a conviction or a deferred adjudication.

- E. Non-regular staff positions: A position designated as temporary, as one requiring student status as a condition of employment, as lump sum, and/or as non-benefits eligible.
- F. Regular staff position: A university position in which an employee is appointed for at least 20 hours per week on a regular basis for a period of at least four and one-half months, excluding positions in which students are employed for which student status is required as a condition of employment and those teaching and/or research positions classified as faculty.

IV. DESIGNATION OF A POSITION AS SECURITY SENSITIVE

- A. To be designated as "security sensitive," a position must meet one or more of the following criteria:
 - 1. Handle currency.
 - 2. Have access to confidential information and/or have the capability to create, delete, or alter records in any of the university student, financial, personnel, payroll, or related computer databases or in research databases that may contain trade secrets.
 - 3. Have routine access to building master control and key systems.
 - 4. Are responsible for the care or instruction of children.
 - 5. Work in an area designated as a security-sensitive area.
- B. Designation of a position as security sensitive must be approved by the college/division business administrator.
- C. Hiring authorities wishing to designate a faculty position as security sensitive may contact the Office of the Senior Vice President for Academic Affairs and Provost, whose approval is required. (Once the position is approved as security sensitive, the Human Resources Department will process the request for criminal history record investigation in accordance with this procedure.)

V. POLICY PROVISIONS

- A. Regular positions designated as security sensitive will be clearly identified as such in job descriptions, position requests, job postings, and advertisements. Applicants for non-regular positions will be notified by the hiring department that the position has been designated as security sensitive or that the position is in a security sensitive area.

- B. All applicants for security sensitive positions are subject to a criminal history record investigation and should be so informed during the interview process. Employment in a job that is designated security sensitive is contingent upon satisfactory completion of the criminal history record investigation. Applicants who decline to submit to a criminal history record investigation or fail to provide required information will be denied employment for a security sensitive position.
- C. The Human Resources Department will be responsible for maintenance of records of positions designated as security sensitive. Hiring authorities desiring to designate a regular position as security sensitive may do so when creating the position, filling a vacant position, or reclassifying a position.
- D. The University of Houston Chief of Police or designee is responsible for conducting the criminal history record investigation. This information will be maintained by the UH Department of Public Safety and will not be released or otherwise disclosed to any other person or agency except as provided in this policy or procedure or by law.
- E. The departmental hiring authority may **in no circumstances** conduct any part of the investigation, or talk with the candidate about the specific findings of the criminal history record investigation.
- F. Any breach of confidentiality regarding information obtained from a criminal history record investigation may be grounds for disciplinary action up to and including termination.
- G. Law enforcement areas are subject to more rigorous criminal history checks; therefore, UH Department of Public Safety internal processes shall be followed for their departmental hiring in lieu of the process defined herein.

VI. INITIATING THE EMPLOYMENT PROCESS

- A. Regular staff positions:
 - 1. The hiring department will submit a Position Request according to established procedures.
 - 2. The appropriate business administrator will complete the section designating the position as security sensitive.
 - 3. The Human Resources Department will process the Position Request according to standard procedures. The job announcement, including advertisements, will identify the position as "Security Sensitive."

4. After selection of the final candidate, the hiring authority will have the applicant complete and sign the CHRI request form and then submit it to the Human Resources Department to request a criminal history record investigation. Job offers should not be extended until the criminal history record investigation is complete and a recommendation to hire has been conveyed to the appropriate college or division administrator. On some occasions, job offers may be extended contingent upon a negative criminal history and a recommendation to hire has been conveyed to the appropriate college or division administrator.
5. The Human Resources Department will provide the completed CHRI form to the UH Department of Public Safety.

B. Non-regular staff positions:

1. The hiring department must notify the selected candidate that the employment offer is conditional upon successfully passing the criminal history record investigation.
2. The hiring department is responsible for indicating clearly on the Employment Authorization Request (EAR) form that the position is security sensitive.
3. New non-regular employees with an EAR indicating that the position is security sensitive will be given a CHRI request form to complete as part of the sign-up process. The Human Resources Department will ensure that all applicable information on the CHRI form has been completed.
4. The Human Resources Department will provide the completed CHRI form to the UH Department of Public Safety.

VII. CRIMINAL HISTORY RECORD INVESTIGATION PROCESS

- A. Upon receipt of the CHRI request form, the UH Department of Public Safety will conduct a criminal history record investigation. The University may contract with a vendor to assist with the investigation.
- B. Once complete, the Chief of Police or designee will deliver a Criminal History Record Investigation Report cover sheet to human resources. The cover sheet will indicate either:
 - (1). Positive, which means:
Conviction; or
deferred adjudication

OR:

- (2.) Negative, which means:
No criminal history record; or
charge/case dismissed, or finding of not guilty

In the case of a positive report (1), a copy of the criminal history record investigation report will be attached. The report will be treated confidentially.

- C. The Chief of Police or designee will be responsible for maintaining and destroying any information received as a result of the criminal history record investigation, as follows:
1. Records indicating the existence of convictions or deferred adjudication will be maintained in Human Resources for seven years past the date of termination or notification of inability to hire.
 2. Where there is no history or the charges were dismissed or there was a finding of not guilty, the information will be destroyed at the end of one year.

VIII. RECOMMENDATION OF EMPLOYABILITY

- A. Where the criminal history record investigation reveals a negative criminal history record, Human Resources will convey a recommendation of employable.
- B. Where there is a positive criminal history record, Human Resources will evaluate the specific nature of the criminal history record, together with the duties of the position for which the candidate is being considered. The evaluation will determine if the candidate may be recommended for employment in spite of the positive criminal history record, based on an absence of "justifying business necessity for refusal to hire."

A recommendation of employable or not employable will be made based upon the following factors:

- The type of job sought and its relation to the criminal record.
- The nature and gravity of the offense leading to the criminal record.
- The frequency of violations.
- The time that has passed since the conviction or completion of sentence.

IX. NOTIFICATION OF RECOMMENDATION OF EMPLOYABILITY

- A. Human Resources will notify the college/division administrator of the hiring department of the recommendation of employability as quickly as possible following receipt of the criminal history record by the Human Resources Department.

If there is a recommendation of not employable, human resources will divulge the specific nature of the criminal charge, if that information is requested. The Criminal History Record Investigation Report is retained in the Human Resources Department.

- B. If a candidate has a recommendation of not employable, the hiring department must proceed to select a different candidate, unless the department plans to request an exception to hire. If a conditional employee in a non-regular position has a recommendation of not employable, the hiring department must terminate the employee unless the department plans to request an exception to retain. In that case, the employee may be retained pending outcome of the request for exception.
- C. A candidate with a recommendation of not employable may be hired or the conditional employee retained only with the approval of the Vice President for Administration and Finance or, in the case of faculty, with the approval of the Senior Vice President for Academic Affairs and Provost.
- D. If a regular employee who has applied for a transfer or promotion to a security sensitive position on campus has a recommendation of not employable, he or she may remain in his/her current position if the nature of the criminal activity does not preclude employment in that position and if there is no evidence of providing false information to the university regarding the criminal history. Otherwise, the employee will be subject to termination from the current position.

X. REQUEST FOR AN EXCEPTION TO RETAIN AN EMPLOYEE OR HIRE A CANDIDATE WITH A POSITIVE CRIMINAL HISTORY

- A. If the hiring authority disagrees with a recommendation of not employable, a request for reconsideration must be submitted to the Human Resources Department before a formal request for an exception to hire or retain is made to the Vice President. Should the hiring authority still disagree with the recommendation of the Human Resources Department following reconsideration, he/she may then proceed with a request for exception.
- B. Requests for exceptions to hire or retain a person with a positive criminal record must be initiated at the dean's or director's level or higher.

- C. The request for exception must be submitted within five working days of notification by the Human Resources Department of the results of the reconsideration. The formal request for an exception will be made in writing to Human Resources, who is, in turn, responsible for delivering the request and the necessary documentation to the Vice President for Administration and Finance (or, in the case of faculty, to the Senior Vice President for Academic Affairs and Provost).

The request for the exception to hire or retain must be based upon the evaluation of the specific nature of the criminal history record, together with the duties of the position for which the candidate is being considered. The appeal must be based on the facts of the situation as they relate to the factors specified in provision VI.B. of this document.

- D. Upon receipt of the request for an exception to hire, the Vice President for Administration and Finance (or the Senior Vice President for Academic Affairs and Provost) will review all the documents and make a final decision within five working days.
- E. The Vice President for Administration and Finance will provide notification of the decision to Human Resources, who in turn will forward the decision to the hiring department.
- F. When the hiring department has received the decision, it must immediately notify the conditional employee in a non-regular position of the decision: whether the exception has been granted and employment will continue, or whether the exception has been denied and the employment relationship cannot proceed. The department should also notify the applicant for a regular position: either to extend the employment offer or that employment has been denied.

XI. COSTS FOR CRIMINAL HISTORY RECORD INVESTIGATIONS

- A. Costs of routine criminal history record investigations on each final candidate will normally be borne by UH central administration.

If the department wishes to run CHRIs on more than one candidate, the department must bear the cost of the additional investigations.

- B. Should the Chief of Police or the Vice President for Administration and Finance determine the necessity for investigating a candidate's criminal history beyond the Houston metropolitan area, costs for such investigations will be borne by UH central administration.

- C. Should a hiring authority discover information regarding the candidate that may require further investigation, he/she is obligated to report that information to the Chief of Police. The Chief of Police may, as a result, determine it advisable to investigate the candidate's criminal history beyond the Houston metropolitan area, and UH central administration will bear the costs of the wider investigation.
- D. Should a hiring department want to investigate a candidate's criminal history beyond the Houston metropolitan area with no basis of substantial information, and the Chief of Police does not concur in the wider investigation, costs for such investigations will be charged to that hiring department. Transfer of costs will be initiated by the UH Department of Public Safety via Expenditure Reallocation or Correction (ERC) form upon receipt of the vendor's invoice.

XII. REVIEW AND RESPONSIBILITIES:

Responsible Party: Associate Vice President for Finance

Review: Every 3 years, on or before January 1

XIII. APPROVAL

Jim McShan

Interim Vice President for Administration and Finance

Donald J. Foss

Senior Vice President for Academic Affairs and Provost

Renu Khator

President

Date of President's Approval: April 7, 2008