SECTION: Human Resources **Number: 02.03.05**
AREA: Recruitment and Employment

SUBJECT: Background Checks for Employees

I. PURPOSE AND SCOPE

The University of Houston is committed to promoting a safe and secure environment. To that end, this policy sets forth requirements for criminal background checks for employment and to provide guidelines for the hiring of employees as prescribed by Texas Education Code, Section 51.215.

This policy is applicable to all positions within the University of Houston regardless of funding source.

Each division is responsible for the costs of criminal background checks conducted on employees hired by the division.

II. POLICY STATEMENT

A. The University of Houston has designated all positions as "security sensitive," therefore, requiring a criminal background check. As provided by this document, the university shall obtain criminal background check information related to applicants for all university positions.

B. The policy of the University of Houston System and its universities 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, ethnicity, military status, genetic information, or sex (including gender and 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.

III. DEFINITIONS

A. Criminal Background Check: An investigation into official public records to determine the existence or non-existence of a record of any criminal charge(s).

B. Negative criminal background check: For the purposes of this MAPP, a criminal background check that reveals no record, a record that indicates charge(s) were dismissed or any other finding of not guilty.

C. Positive criminal background check: For the purposes of this MAPP, a criminal background check that indicates a conviction.

IV. POLICY PROVISIONS

A. All final applicants are subject to a criminal background check and should be so informed during the interview process. Employment is contingent upon the satisfactory completion of the criminal background check. Applicants who decline to submit to a background check or fail to provide required information will be denied employment.

A criminal background check must be conducted on any applicant who is under final consideration following normal screening and selection processes for employment.

B. The Human Resources Department is responsible for ensuring that a criminal background check is conducted for staff positions. The Office of Faculty Affairs is responsible for ensuring that a criminal background check is conducted for faculty positions. This information will be maintained by the aforementioned offices and will not be released or otherwise disclosed to any other person or agency except as provided in this policy/procedure or by law.

C. Any breach of confidentiality regarding information obtained from a criminal background check may be grounds for disciplinary action, up to and including termination.

D. Law enforcement areas are subject to more rigorous criminal background checks; therefore, UHDPS internal processes shall be followed for their departmental hiring in lieu of the process defined herein.

V. PROCEDURE

A. After selection of the final candidate, the applicant will complete the criminal background check authorization form. All job offers are contingent upon a review of the criminal background check report, and a contingency statement must be included in all offer letters.

B. A recommendation to hire will be conveyed to the appropriate hiring authority or designee once the background check has been reviewed.

VI. CRIMINAL BACKGROUND CHECK INVESTIGATION PROCESS

A. The University may contract with a vendor to conduct criminal background checks.

B. Human Resources and the Office of Faculty Affairs will be responsible for maintaining and destroying any information received as a result of the criminal background check investigation.

This information will be maintained in accordance with the University of Houston System (UHS) records and retention schedule and will not be released or otherwise disclosed to any person or agency except the UHS Legal Affairs and General Counsel or respective vice president.

VII. RECOMMENDATION OF EMPLOYABILITY

A. Where the criminal background check investigation reveals a negative criminal background check, Human Resources or the Office of Faculty Affairs will convey a recommendation of employability.

B. Where there is a positive criminal background check, Human Resources or the Office of Faculty Affairs will evaluate the specific nature of the criminal background check. The evaluation will determine if the candidate may be recommended for employment in spite of

the positive criminal background check, based on an absence of "justifying business necessity for refusal to hire." The evaluation will determine if the candidate may be recommended for employment in spite of the positive criminal background check.

A recommendation of employable or not recommended for employment 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.

VIII. NOTIFICATION OF RECOMMENDATION OF EMPLOYABILITY

A. Human Resources or the Office of Faculty Affairs will notify the hiring authority or designee of the recommendation of employability following review of the criminal background check.

B. If a candidate has a recommendation of "not recommended for employment," the hiring authority must proceed to select a different candidate, unless the hiring authority plans to request an exception to hire. In that case, the candidate may be retained pending the outcome of the request.

C. If an employee who has applied for a transfer or promotion on campus has a recommendation of "not recommended for employment, they may remain in their 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.

IX. REQUEST FOR AN EXCEPTION TO RETAIN AN EMPLOYEE OR HIRE A CANDIDATE WITH A POSITIVE CRIMINAL BACKGROUND CHECK

A. If the hiring authority disagrees with a recommendation of "not recommended for employment," a request for an exception to hire will be submitted to the appropriate vice president. Only the appropriate vice president can authorize hiring someone with a positive criminal background report who has been designated as "not recommended for employment."

B. The appropriate vice president will notify the Associate Vice President for Human Resources of the hiring decision in writing, with the justification for granting the exception. The Associate Vice President for Human Resources or designee will, in turn, notify the hiring authority.

X. CRIMINAL HISTORY OBTAINED FROM A THIRD-PARTY AGENCY

When the University obtains a criminal background report 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 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 candidate, Human Resources will notify the candidate of the intention to deny them employment, based in whole or in part on their consumer report, as required by the Fair Credit Reporting Act (FCRA), and enclose a copy of the candidates criminal history report, as well as the statement of rights under 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, Human Resources may request that the applicant's file be reconsidered for employment; otherwise, the applicant will be notified that their 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.

XI. REVIEW AND RESPONSIBILITIES:

Responsible Parties: Associate Vice President, Human Resources

Sr. Vice Provost, Faculty Development and Faculty Affairs

Review: Every five years

XII. APPROVAL

/Raymond Bartlett/
Senior Vice President for Administration and Finance

/Diane Z. Chase/
Senior Vice President for Academic Affairs and Provost

/Renu Khator/
President

Date of President's Approval: January 27, 2024

XIII. REFERENCES

Texas Education Code, Section 51.215

SAM 02.A.37 – Background Checks for Employees

Fair Credit Reporting Act (FCRA)