Rule Summary

Criminal background checks must be performed on all new employees and may be performed on current employees. This rule provides guidance for performing and analyzing criminal background information. Criminal history records shall not be used to discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, genetic information, or veteran protected status.

Rule

1. GENERAL

1.1. This rule supplements system regulation 33.99.14, Criminal History Record Information – Employees and Candidates for Employment. In an effort to provide a safe environment for students, visitors, faculty, and staff and enhance the security of physical resources, Texas A&M University-Corpus Christi shall conduct criminal background checks on candidates for employment selected for hire and may conduct criminal background checks on current employees.

1.2. The President has determined that all positions, including student, adjunct, part-time, and temporary positions at the university fall under the category of security-sensitive positions, as defined in system regulation 33.99.14, Criminal History Record Information – Employees and Candidates for Employment.

1.3. Additional information regarding the ongoing criminal background check process for employees involved in youth initiatives can be found in university rule 24.01.06.C1, Programs for Minors.

1.4. Vacancy announcements, advertisements for positions, and employee job descriptions will identify the security-sensitive nature of the positions. Candidates for employment will be informed that employment requires an acceptable background investigation.
1.5. Every candidate for employment and current employee will have, as permitted by
law, the opportunity to request, receive, review, and correct information collected
by or on behalf of the university.

2. CRIMINAL HISTORY BACKGROUND CHECKS

2.1. If an offer is extended to a candidate for employment before the completion of the
background check, the offer must state that employment is contingent on the
completion of an acceptable criminal background investigation.

2.2. Human Resources will obtain an authorization form from final candidates for
employment and new employees who have been extended a conditional offer of
employment. Individuals refusing to sign the authorization form for the
background investigation will not be eligible for employment. The criminal
background authorization form can be found on the Human Resources website and
in the Appendix section of this rule.

2.3. Any candidate for employment who has a criminal history record indicating a
conviction, may be hired only after the Human Resources office has conducted the
analysis outlined in section 6 of this rule and it is determined that the criminal
history does not affect the individual’s eligibility for employment.

2.4. The approval of the President is required to employ an individual who has a
conviction for:

   2.4.1. A felony, as defined by state or federal law, or equivalent offenses under
          the law of another jurisdiction; or

   2.4.2. Any offense requiring registration as a sex offender.

2.5. A candidate for employment is required to promptly report any arrest, criminal
charge, or conviction occurring after their application is submitted. This reporting
obligation for candidates for employment exists until the individual: (a) receives
notice that they will not be hired; or (b) is hired and first reports to work.

3. CRIMINAL HISTORY RECORDS

Criminal history record information, including conviction information contained therein,
will be regarded as confidential as required by law and will not be made a part of the
candidate for employment’s file or the employee's personnel file or communicated to any
unauthorized individual.

4. FALSIFICATION OR FAILURE TO DISCLOSE CRIMINAL HISTORY

Falsification or failure to disclose criminal activity at any point during the application
process or period of employment will be addressed as outlined in section 4 of system
Criminal Background Checks

5. CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES

5.1. Employees are Subject to Periodic Checks

5.1.1. Employee’s criminal history record information is subject to review at any time as permitted by law. Periodic criminal history information record checks may be conducted at the discretion of the university with approval of the President. The President has delegated this authority to the vice presidents for units not reporting directly to the President.

5.1.2. Criminal background information may also be required for an employee who is under consideration for a transfer, demotion, or promotion.

5.2. Current employees must report to their supervisor and Human Resources, within twenty-four (24) hours or at the earliest possible opportunity thereafter, any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine. Failure to make the report required by this section shall constitute grounds for disciplinary action, including dismissal. These arrests, charges, or convictions shall be analyzed in accordance with section 6 of this rule.

6. ANALYSIS OF CRIMINAL HISTORY RECORD INFORMATION AND SUBSEQUENT ACTION

6.1. Upon finding criminal history record information indicating a conviction, criminal charge, or an arrest, the Human Resources office and the University Police Department shall conduct the analysis found in section 6 of system regulation 33.99.14, Criminal History Record Information – Employees and Candidates for Employment.

6.2. To ensure compliance with the Equal Employment Opportunity Commission standards and policy guidance, candidates for employment with a criminal history will not be automatically disqualified from university employment, and a university employee’s criminal history will not result in automatic disciplinary action or dismissal. The analysis shall be used to determine whether an individual’s criminal history will affect the individual’s potential or continued university employment.

6.3. If, after completing the analysis with respect to a conviction, Human Resources and the University Police Department reasonably conclude the candidate for employment’s or employee’s criminal conduct makes them unsuitable for the position in question, Human Resources, in consultation with the University Police Department, may recommend that the department/unit reject the candidate for employment or dismiss the employee. If the department/unit disagrees with the
6.4. If, after completing the analysis with respect to a criminal charge or arrest, Human Resources concludes the candidate for employment’s or employee’s misconduct makes them unsuitable for the position in question or should be disciplined, Human Resources may recommend that the department/unit reject the candidate for employment or discipline or dismiss the employee. If the department/unit disagrees with the conclusion of Human Resources and wishes to employ, continue the employment of, or not discipline the individual, the department/unit must receive approval from the President or designee. The President has delegated this authority to the vice presidents for units not reporting directly to the President.

7. APPEALS

7.1. A candidate for employment rejected for university employment under this rule has no appeal unless the individual alleges discrimination. Such appeals must be filed in accordance with university rule 08.01.01.C1, Civil Rights Compliance.

7.2. Faculty employees may appeal action taken under this rule by following the applicable provisions of university procedure 32.01.01.C0.01, Complaint and Appeal Process for Faculty Members or university rule 08.01.01.C1, Civil Rights Compliance.

7.3. Non-faculty employees may appeal action taken under this rule by following the applicable provisions of university procedure 32.01.02.C0.01, Complaint and Appeal Process for Non-faculty Employees or university rule 08.01.01.C1, Civil Rights Compliance.

7.4. The President has delegated authority to review and approve appeal investigation findings to the vice presidents for units not reporting directly to the President.

Related Statutes, Policies, or Requirements

Tex. Gov't Code Ch. 411, Subchapter F
Tex. Gov't Code Ch. 559
Fair Credit Reporting Act, as amended, 15 U.S.C. §§ 1681 – 1681u
System Policy 12.01, Academic Freedom, Responsibility and Tenure
System Policy 32.02, Discipline and Dismissal of Employees
System Regulation 08.01.01, Civil Rights Compliance
Appendix

Criminal Background Check Authorization Form

Contact Office

Contact for clarification and interpretation: Human Resources  
(361) 825-5743