

## STANDARD ADMINISTRATIVE PROCEDURE

### **33.99.14.M1.02 Criminal History Record Information – Current Faculty and Faculty Applicants**

*Approved February 22, 2011*

*Revised July 29, 2021*

*Next scheduled review: July 29, 2026*

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#### **Standard Administrative Procedure Statement**

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In accordance with University Rule 33.99.14.M1, Texas A&M University may perform criminal background checks for internal and external applicants for employment and shall perform criminal background checks of all finalists for appointment at Texas A&M. Texas A&M may perform checks on existing employees as provided by University Rule 33.99.14.M1.

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#### **Definitions**

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As defined in the rule, the Appropriate University Office (AUO) is Faculty Affairs for faculty positions.

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#### **Procedures and Responsibilities**

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1. COLLECTION OF CRIMINAL HISTORY RECORD AND SEX OFFENDER REGISTRY INFORMATION
  - 1.1. Per Texas A&M University System Regulation 33.99.14, Section 2.1, failure of an applicant to consent to a criminal background check is grounds for rejection of the applicant.
  - 1.2. In accordance with University Rule 33.99.14.M1, Section 1.3, existing faculty members may have criminal history record and sex offender registry information gathered only after Faculty Affairs has approved the collection of this information in accordance with section 3 below. Failure of an employee to consent to a criminal background check is grounds for disciplinary action, including termination.
2. FACULTY APPLICANTS (final internal or external candidate for a Texas A&M academic position)

- 2.1 The department/college will e-mail the Criminal Background Check Request Form (completed by the applicant) to the office of Human Resources' Recruitment and Workforce Planning (Employment.) with a copy to Faculty Affairs. Criminal Background Check (CBC) results will be reported directly to Faculty Affairs.
  - 2.2 CBC are required for faculty applicants as follows:
    - 2.2.1 Foreign nationals that are outside the United States and who have accepted an offer of employment are subject to the security background checks that federal agencies perform at the time the foreign national applies for a nonimmigrant visa. Therefore, an international criminal background check may not be required..
    - 2.2.2 International and national background checks are required of US citizens and permanent resident aliens who reside or work outside the US.
    - 2.2.3 National background checks are required of foreign national applicants who already reside or work in the US.
  - 2.3 If there are no relevant arrests, charges, and/or convictions, Employment will notify Faculty Affairs that the criminal background check has been completed. If arrests, charges and/or convictions are found, Faculty Affairs will be notified and will conduct an administrative review as outlined in Section 5.
3. EXISTING FACULTY
- 3.1 Criminal history record of existing faculty members is subject to review at any time as permitted by law.
  - 3.2 The head of the academic department/unit having a reason for which he/she needs to request a CBC on an existing faculty member will request in writing specifying the reasons and will provide the written request to Faculty Affairs
  - 3.3 If Faculty Affairs approves the request, the head of the academic department/unit will ask the faculty member to complete the CBC Request Form. The completed form will be provided to Faculty Affairs by the head of the academic department/unit.
  - 3.4 Faculty Affairs will then forward the forms to Employment for processing.
  - 3.5 The relevant results of the check will be provided to Faculty Affairs. If there is a finding of a criminal history record, Faculty Affairs will proceed as indicated in section 2 of University Rule 33.99.14.M1 and as directed in section 5 below.
4. FACULTY APPLICANTS AND FACULTY MEMBERS EXISTING RESPONSIBILITIES TO INFORM POTENTIAL OR EXISTING SUPERVISORS OF ARRESTS, CHARGES, OR CONVICTIONS

- 4.1 In accordance with section 2.4 and section 5.2 of System Regulation 33.99.14 and section 3 of University Rule 33.99.14.M1, applicants and existing employees have the responsibility to inform supervisors within 24 hours of any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine.
- 4.2 All reports by faculty of criminal arrests, criminal charges, or criminal convictions should be reported to Faculty Affairs as soon as the supervisor has received the report from the faculty member. Faculty Affairs will conduct the administrative review outlined in section 5 below.
5. ANALYSIS AND ACTION UPON FINDING OF CRIMINAL HISTORY RECORD INFORMATION
- 5.1 Before rejecting an applicant or making a recommendation of discipline or dismissal of an existing faculty member based on an existing conviction, Faculty Affairs will conduct an administrative review of the matter. In making its decision Faculty Affairs will consider the following factors:
- (a) The nature and gravity of the offenses(s);
  - (b) The time that has passed since the conviction and/or completion of the sentence;
  - (c) The nature of the job sought or held; and
  - (d) The legitimate interest of protecting the safety and welfare of employees and general public, preserving state property and upholding the reputation and integrity of the member for the citizens of Texas.
- 5.2 Before rejecting an applicant or making a recommendation of discipline or dismissal of an existing faculty member based on a criminal charge or arrest, Faculty Affairs will conduct an administrative review of the matter. This administrative review must justify the recommendation for the action as job-related and consistent with business necessity. In addition, the administrative review will evaluate whether the applicant or the faculty member actually engaged in the misconduct. In making its decision, Faculty Affairs will consider the following factors:
- (a) The nature and gravity of the activity for which the individual was charged or arrested;
  - (b) The time that has passed since the charge or arrest and/or disposition of the offense;
  - (c) The nature of the job sought or held;
  - (d) The legitimate interest of protecting the safety and welfare of employees and the general public, preserving state property and upholding the reputation and integrity of the member for the citizens of Texas;
  - (e) The applicant's or faculty member's explanation of his or her charge or arrest coupled with follow-up inquiries necessary to evaluate his or her credibility; and
  - (f) Whether the reason for the charge or arrest violated a system policy or regulation, or university rule or procedure.
- 5.3 Upon conclusion of the administrative review under section 5.1 or section 5.2, Faculty Affairs will issue a report to the department head. If the report concludes that the applicant's or the faculty member's misconduct evidences the person is unsuitable for

the position in question or should be disciplined, Faculty Affairs will recommend that the department head reject the applicant or will recommend to the department head specific disciplinary sanction or dismissal of the faculty member.

- 5.4 If the department head disagrees with Faculty Affairs recommendation and wishes to employ, continue the employment of or not discipline the individual, the department head must request approval through the college dean to the Provost & Executive Vice President & Executive Vice President . Hiring an applicant with a criminal history record showing a conviction for a felony, as defined by state or federal law, or equivalent offenses under the law of another jurisdiction; or any offense requiring registration as a sex offender requires the approval of the President or designee.

## 6. APPEALS

- 6.1 Applicants have no right to appeal the rejection for employment.
- 6.2 Existing faculty may appeal the disciplinary sanctions or dismissal in accordance with University SAP 12.99.99.M0.01, Rule 12.01.99.M1, or Rule 08.01.01.M1 as applicable.
- 6.3 Complaints alleging discrimination will be handled in accordance with University Rule 08.01.01.M1.

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### Related Statutes Policies, Regulations and Rules

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#### Supplements

[System Regulation 33.99.14 Criminal History Record Information – Employees and Applicants](#)  
[University Rule 33.99.14.M1 Criminal History Record Information – Employees and Applicants](#)

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#### Forms

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##### *Faculty Criminal Background Check Request Form*

[https://dof.tamu.edu/dof/media/PITO-DOF/Forms/DOF-Universal/Criminal-Background-Check-Request\\_2.pdf](https://dof.tamu.edu/dof/media/PITO-DOF/Forms/DOF-Universal/Criminal-Background-Check-Request_2.pdf)

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#### Contact Office

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#### OFFICE OF RESPONSIBILITY:

[Office for Faculty Affairs](#)