



The Texas A&M University System
Texas A&M Engineering Extension Service

Standard Administrative Procedure

33.99.14.N0.01 Criminal History Record Information Checks – Employees and Applicants

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Summary

The Texas A&M Engineering Extension Service (TEEX) is committed to protecting the safety and welfare of employees and the general public, preserving state property, and upholding the reputation and integrity of the Texas A&M University System for the citizens of Texas. To achieve these goals, TEEX has designated that all positions, budgeted or non-budgeted, are considered security sensitive. Additionally, criminal history record information checks will be performed on current employees and applicants for employment as established by this procedure. This applies to regular budgeted employees, temporary/casual (wage) employees, student workers, and graduate assistants/graduate student workers. Criminal history record information checks may take as little as one day or up to several weeks, depending upon the past addresses of the applicant or employee. The cost of the criminal history check will be the responsibility of the employing division and paid monthly.

TEEX Human Resources (HR) utilizes a third-party vendor to conduct the following background checks: Social Security Number Trace, County Criminal Record, DOJ Sex Offender Search, and Enhanced Nationwide Criminal Search. If an applicant has lived outside of the United States, a country check can be performed. HR will contact the vendor to determine if the check can be performed in that country and the cost. This information will be shared with the division, and the division will make the determination as to whether a background check will be conducted.

Definitions

Applicant – An individual applying for a position with the system

Arrest – To detain in legal custody

Candidate for employment – An applicant who has been provided a conditional offer of employment

Conviction – A finding of guilt after a trial, a plea of guilty, or a plea of nolo contendere (or no contest), or placement on deferred adjudication or some other type of pretrial diversion, for offenses other than misdemeanor traffic offenses punishable only by fine

Conviction record – Criminal history data reported by criminal justice agencies and includes arrests, prosecutions, and dispositions of cases for individuals arrested for a Class B misdemeanor or greater violation as defined by state law or equivalent offenses under the law of another jurisdiction

Criminal charge – A formal written instrument such as an indictment or information accusing an individual of a criminal offense

Criminal history record information – Information collected about an individual by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions (does not include driving record information maintained by the Department of Public Safety [DPS] under Chapter 521 of the Texas Transportation Code as established in Tex. Gov't Code § 411.082)

Security-sensitive position – Any position in which an employee handles currency, has access to a computer terminal, has access to the personal information or identifying information of another individual, has access to the financial information of the employer or another individual, has access to a master key, or works in an area designated as a security-sensitive area (see Tex. Gov't Code § 411.094(a)(2); see Tex. Educ. Code § 51.215(c))

Requirements

1. Pre-Employment

1.1 Every offer of employment shall be conditioned upon receipt of an acceptable criminal history record information check. Failure of an applicant to consent is grounds for rejection of the applicant. Having a criminal history record will not automatically disqualify an individual for employment. TEEX HR will submit the request to obtain the criminal history record information from the vendor.

1.2 An applicant for TEEX employment is required to promptly report any arrest, criminal charge, or conviction occurring after his/her application is submitted. This reporting obligation for applicants exists until the individual: (a) receives notice that he/she will not be hired; or (b) is hired and first reports to work.

1.3 The criminal history record information shall remain confidential; it will be shared only with individuals who need to know and shall be destroyed after the individual reports to his/her first day of work.

2. Post Employment

2.1 An employee's criminal history record information is subject to review at any time as permitted by law. Periodic criminal history information record checks shall be conducted at the discretion of TEEX.

3. Falsification or Failure to Disclose

3.1 If it is determined prior to employment that an applicant has falsified or failed to disclose his/her criminal history in his/her application for employment, the applicant may not be eligible for employment. This determination will be made by HR, and the Adverse Action Process below will be followed.

3.2 If it is determined at any time after employment that an employee falsified or failed to disclose his/her criminal history on the application for employment, the employee may be subject to disciplinary action, including dismissal.

4. **Convictions, Charges, and Arrests found in Criminal History Record Check**

4.1 In situations where criminal history record information is found for an applicant or employee, an analysis based on System Regulation shall be conducted by HR to determine whether an applicant is eligible for potential or continued employment or whether to discipline or dismiss an employee.

4.2 Any applicant who has criminal history record information indicating a conviction for an offense listed below may be hired only after a recommendation by the Division Director and approval by the Agency Director or designee. A conviction for any of the following offenses requires such approvals:

- a. A felony, as defined by state or federal law, or equivalent offenses under the law of another jurisdiction.
- b. Offense requiring registration as a sex offender.

5. **Current Employee Arrests**

5.1 An employee (defined as budgeted, wage, graduate assistants, or student workers) must report to the supervisor—within 24 hours or at the earliest possible opportunity—any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine. Failure to make the required report shall constitute grounds for disciplinary action, up to and including dismissal.

5.2 The supervisor must report the above to the division director and HR.

5.3 An employee who has been arrested is subject to immediate suspension with pay pending the outcome of an administrative review of the facts surrounding the arrest, charges, or conviction. This will be done by the Human Resources Officer (HRO)/designee or by the appropriate law enforcement agency, as appropriate.

5.4 The employee must fully cooperate during this process.

6. **Appeals**

6.1 Applicants have no appeal unless they allege unlawful discrimination, sexual harassment, and/or retaliation. Such appeals must be filed in accordance with System Regulation 08.01.01 Civil Rights Compliance. Such applicants must present written data or documentation of the specific actions or basis of the allegation to the HRO within ten business days from the date of the rejection of their application. The HRO or designee will investigate and issue a written report of findings to the Chief Executive Officer (CEO)/designee for approval. The rejected applicant will be sent a certified copy of the approved report within 14 business days of the CEO/designee approval.

6.2 TEEX employees can appeal action taken in accordance with the TEEX Standard Administrative Procedure (SAP) [32.01.02.N1.01 Complaint and Appeal Process](#).

7. Criminal History Record Information Checks for TEEX Students

7.1 TEEX HR will perform the criminal history checks on students participating in TEEX classes who are required to have criminal information checks completed. The division will be responsible for obtaining written permission from the students and for the cost of the criminal history checks.

8. Adverse Action Process

8.1 If HR receives a criminal history report that contains information about an applicant's and/or employee's criminal background that is not documented on their application, the adverse action process will be followed:

8.1.1 HR will contact the individual for clarification on the information provided in the report.

8.1.2 If the individual indicates the information in the report is not correct, HR will send the individual a pre-adverse action letter outlining their rights, a copy of report, and a copy of the Fair Credit Reporting Act (FCRA).

8.1.2.1 If the individual indicates the information is correct, HR will determine if the agency can move forward with the offer of employment.

8.1.3 The individual will have five (5) business days from the date of the letter to contact the third-party vendor or HR to clarify the issue at hand. If the employee does not contact either group, it will be assumed that they are no longer interested in the position.

8.1.3.1 If the individual is currently employed with TEEX, additional action may be taken up to and including termination of employment.

8.1.4 A copy of the letter will be attached to the hiring matrix to indicate why the applicant was not hired.

Quality Assurance Measures

HR will continuously monitor, with support from OGC, the implementation of this SAP.

Related Statutes, Policies, or Requirements

[System Regulation 33.99.14, Criminal History Record Information – Employees and Candidates for Employment](#)

[Texas Government Code 411.094, Access to Criminal History Record Information: Higher Education Entities](#)

Office of Responsibility

Human Resources
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