

## UNIVERSITY RULE

### **33.99.14.M1 Criminal History Record Information - Employees and Applicants**

*Approved January 25, 2000*

*Revised March 9, 2000*

*Revised August 13, 2010*

*Revised December 12, 2013*

*Revised September 13, 2018*

*Next scheduled review: September 13, 2023*

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#### **Rule Statement**

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Texas A&M University may perform criminal background history checks of 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 this rule.

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#### **Reason for Rule**

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To promote the safety and welfare of employees, students and the general public, preserve state property, and uphold the reputation and integrity of the University for the citizens of Texas. The information obtained shall be used to make employment decisions affecting the applicant or employee as provided by this rule.

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#### **Definitions for purpose of this rule**

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Appropriate University Office (AUO): Dean of Faculties and Associate Provost Office for faculty positions, Assistant Vice President for Scholarships and Financial Aid for students in student worker roles, Student Organization Development and Administration in the Department of Student Activities for camp workers, and Human Resources and Organizational Effectiveness (HROE) for all other positions.

For Texas A&M Health Science Center (TAMHSC) entities, the AUO for all positions will be Texas A&M Human Resources and Organizational Effectiveness, which includes TAMHSC HR staff as primary points of contact. HROE will consult with TAMHSC leadership as needed for cases that require decisions by the Vice President for Human Resources and Organizational Effectiveness.

Texas A&M University at Galveston's Department of Human Resources (TAMUG HR) has been designated as the AUO for all student workers and other positions on the Galveston Campus, with

the exception of faculty positions and camp workers (including camp volunteers). Additionally, TAMUG HR will perform the functions of HROE for positions on the Galveston Campus, with the exception of faculty positions.

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## **Procedures and Responsibilities**

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### **1. COLLECTION OF CRIMINAL HISTORY RECORD INFORMATION**

- 1.1 HROE shall collect or enable the collection of criminal background information, with appropriate vendors as necessary. The AUO will analyze all relevant background information relative to the position requirements. See Section 2 for actions if there is a finding of criminal history record information. Any decision not to hire a finalist or consider an applicant must comply with System Regulation 33.99.14.

For the Texas A&M Health Science Center, Human Resources staff responsible for TAMHSC HR administration will perform the review of background information. If the returned information requires further approval, per System Regulation 33.99.14, a criminal history review form is prepared with HR recommendation and provided to the AUO to approve or deny. The hiring department can appeal the recommendation with the AUO.

- 1.2 An offer to a candidate for a position is pending until the completion of the criminal background check, and thus no one can be placed in a position, until the background information has been collected and processed as required by the AUO.
- 1.3 Existing employees may have criminal history record information gathered only after the AUO has approved the collection of this information and when the employee:
- 1.3.1 holds a position for which the specific duties of the position require it; or
  - 1.3.2 allegedly violates a rule or procedure at Texas A&M, or a policy or regulation of The Texas A&M University System, and the criminal history information is, in good faith, believed necessary to shed light about the substance of the allegation. Background character information may not be sought under this provision.

### **2. ACTIONS IN THE CASE OF A FINDING OF CRIMINAL HISTORY RECORD INFORMATION**

- 2.1 The AUO will analyze the relevant criminal background history information relative to the position requirements. In these reviews, the AUO must assure that the applicant or employee is notified of the finding prior to any discussion of the finding with the current or prospective unit of employment. The applicant or employee must be given an opportunity to provide correct information if he or she can substantiate that the history check is in error, or he or she may provide contextual information as he or she deems relevant. If criminal history record

information remains, the AUO will discuss the findings of the criminal history check and the information gathered from the applicant or employee with:

- a) the designated contact in the Office of the Dean of Faculties for faculty, or
- b) the current hiring supervisor or designated Security Contact Person for all other employees or applicants.

2.2 In accordance with Texas A&M System Regulation 33.99.14 (particularly section 6) the AUO will render a decision concerning either approval to hire for applicants, or the initiation of the process to sanction, up to and including separation from the University, for existing employees. Rules for appeals by hiring units, not applicants, are presented in section 4 of this rule. Existing employees may appeal a decision or sanction in accordance with University Rule 12.01.99.M2 or 12.99.99.M2 (if an existing faculty member) or SAP 32.02.02.M0.02 (if an existing non-faculty employee). If an applicant has a conviction for any of the offenses listed in 2.3 of System Regulation 33.99.14 and the department/unit still wishes to hire the applicant, approval to do so must be given by the Vice President for Human Resources and Organizational Effectiveness or TAMUG's Chief Operating Officer for positions on the Galveston Campus.

3. APPLICANT AND EXISTING EMPLOYEE RESPONSIBILITIES TO INFORM SUPERVISORS OF ARRESTS

3.1 The University is strongly committed to the principle that an individual is innocent unless proven guilty. All applicants and existing employees must inform either the AUO or their supervisor within 24 hours of any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine that occur after the approval of this rule. If circumstances prevent this, as soon as the situation allows notification the applicant or employee must provide both explanation for the delay as well as notification of the criminal arrest or charge or criminal conviction to either the AUO or their supervisor.

3.2 If a Texas A&M investigation is warranted based on a possible violation of Texas A&M System policies or regulations and the factors presented in section 6.2.1 of System Regulation 33.99.14, or university rules or procedures, the investigation will be conducted in accordance with existing rules for investigations of such violation. For applicants who are not existing employees, a determination will be made by the HROE or Provost or designee as to whether conviction for such an arrest would make the applicant unsuitable for the position, and only if this would be the case, whether a delay in the hiring process is warranted pending final resolution by the judicial system. At no time will guilt be inferred or assumed solely as a result of the arrest.

3.3 If the HROE or Provost or designee is unable to determine that the applicant or employee actually engaged in the misconduct, any rejection of the applicant or discipline or dismissal of the employee cannot be based on the criminal charge or arrest.

4. APPEALS

4.1 See Regulation 33.99.14 Section 7 for appeal process.

5. CONFIDENTIALITY

HROE is authorized to gather information on criminal history records and sex offender status and to share this information with appropriate university offices as described in this rule. However, Texas A&M respects the privacy of its employees and applicants and strictly prohibits the disclosure of any information obtained by any individual under this Rule to persons other than those authorized by the Rule itself. It is a criminal offense to knowingly or intentionally obtain criminal history record information in an unauthorized manner, use the information for an unauthorized purpose, or disclose the information to a person who is not entitled to the information, provide a person with a copy of his or her criminal history record information obtained from the Texas Department of Public Safety (DPS) Crime Records Service-Secure Site, or violate related DPS rules.

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**Related Laws, Policies, Regulations, Rules and Procedures**

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[Tex. Gov't Code Chapter 411, Subchapter F](#)

[Tex. Educ. Code § 51.215](#)

[System Policy 12.01, Academic Freedom, Responsibility and Tenure](#)

[System Policy 32.02, Discipline and Dismissal of Employees](#)

[System Regulation 32.01.01, Complaint and Appeal Procedures for Faculty Members](#)

[System Regulation 32.01.02, Complaint and Appeal Process for Nonfaculty Employees](#)

[System Regulation 32.02.02, Discipline and Dismissal of Nonfaculty Employees](#)

[System Regulation 33.99.01, Employment Practices](#)

[System Regulation 33.99.14, Criminal History Record Information-Employees and Applicants](#)

[University Rule 12.01.99.M2, University Statement on Academic Freedom, Responsibility, Tenure and Promotion](#)

[University SAP 12.99.99.M0.01, Faculty Grievances Procedures not Concerning Questions of Tenure, Dismissal or Constitutional Rights](#)

[University SAP 32.02.02.M0.02, Discipline and Dismissal Procedures for Non-faculty Employees](#)

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**Forms**

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[Criminal Background Check Request Form - Non-faculty](#)

[Criminal Background Check Request Form - Faculty](#)

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**Contact Office**

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**OFFICES OF RESPONSIBILITY:**

[Human Resources and Organizational Effectiveness](#)

[Dean of Faculties and Associate Provost](#)