

33.99.14.R1

Criminal History Record Information Employees and Candidates for Employment

Revised October 27, 2023

Next Scheduled Reviewed: October 27, 2028



Rule Summary

Texas A&M University-Commerce (A&M Commerce) is committed to protecting the safety and welfare of employees and the general public; protecting state property and maintaining the reputation and integrity of the university for the citizens of Texas.

A&M-Commerce performs criminal background checks of current employees and applicants for employment as provided by [System Regulation 33.99.14, Criminal History Record Information-Employees and Applicants](#).

Procedures and Responsibilities

1 GENERAL

- 1.1 The Human Resources Office (HRO) will perform background checks of current employees and candidates for employment as provided by System Regulation 33.99.14 and this rule. All employment positions are security-sensitive.
- 1.2 The candidate for employment and current employees will have, as permitted by law, the opportunity to request, receive, review, and correct information about that individual collected by or on behalf of the university, using the background check authorization form.

2 PRE-EMPLOYMENT CRIMINAL HISTORY BACKGROUND CHECKS

- 2.1 The candidate for each position will be subject to a criminal history background check.
- 2.2 The candidate for employment will be required to provide information to complete a criminal background check to determine suitability for employment.
- 2.3 Any candidate for employment who has criminal history record information indicating a conviction for an offense listed in this subsection, may be hired only after a recommendation by the department/unit head, Vice President and discussion with the President. A conviction for any of the following offenses requires such approvals:
 - 2.3.1 A felony, as defined by state or federal law, or equivalent offenses under the law of another jurisdiction; or
 - 2.3.2 Any offense requiring registration as a sex offender.

3 SOURCES OF CRIMINAL HISTORY RECORD INFORMATION

- 3.1 Criminal history background checks on candidates for employment must be run from: (a) the Texas Department of Public Safety (DPS) Crime Records-Public Site or any other publicly available local, state or federal source, if the check is performed by a third-party vendor on behalf of the university, or (b) the DPS Crime Records-Secure Site, the DPS Crime Records-Public Site, or (c) any other publicly available local, state or federal source, if the check is performed by the HRO.
- 3.2 Criminal history checks on current employees under Section 5 of this rule will be sourced from the DPS Crime Records-Public Site or any other publicly available local, state, or federal source.
- 3.3 The university must destroy all such information within its control as soon as practicable: for candidates for employment, after the position has been filled and the individual or the successful candidate reports to his or her first day of work; for employees, after the criminal history record information has been analyzed and any resulting action taken under this rule. Note, the university must maintain completed background check authorization/consent forms as provided in the system records retention schedule. (The authorization is held by a 3rd party provider, Sterling)
- 3.4 The University Police Department (UPD), which requires extended background checks for employees, appointments or volunteers will perform background checks and provide results to the HRO prior to hire. Additionally, for any current employees for whom extended background checks are performed, results will be provided to the HRO. Results of extended background checks are maintained by UPD.

4 FALSIFICATION OR FAILURE TO DISCLOSE CRIMINAL HISTORY

The HRO notifies the hiring supervisor of the results of the criminal history background check.

- 4.1 Candidate for employment. If it is determined prior to employment that a candidate for employment has falsified the criminal history in the application for employment, the candidate will not be eligible for employment. If it is determined prior to employment that a candidate for employment has failed to disclose criminal history in the application for employment, the candidate may not be eligible for employment.
- 4.2 Employee. If it is determined any time after employment that an employee falsified or failed to disclose criminal history in accordance with System Regulation 33.99.14 and this rule, the employee may be subject to disciplinary action, including dismissal.
- 4.3 An analysis of the criminal history record is not required for the decision taken under this section of the rule.

5 POST-EMPLOYMENT CRIMINAL HISTORY BACKGROUND CHECKS

- 5.1 Employees who are being considered as a candidate for promotion, transfer or reclassification that requires a position change will be subject to a criminal history background check.
- 5.2 Any employee declining to consent to a criminal history background check during a promotional or transfer process will be removed from further consideration for the position. If an employee's position is being reclassified and the employee declines to consent to the background check, the employee may be dismissed.
- 5.3 Every employee will have, as permitted by law, the opportunity to request, receive, review, and correct information about that individual collected by or on behalf of the university.
- 5.4 Once the university is made aware that an employee has been criminally arrested, charged or convicted, the university will take such actions as directed in System Regulation *33.99.14*.

5.5 Employee Reporting of Arrests, Charges or Convictions

- 5.5.1 University employees must report to their supervisor, within 24 hours or at the earliest possible opportunity thereafter, regarding 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 constitutes grounds for disciplinary action, including dismissal.
- 5.5.2 The employee's supervisor must report the arrest(s), criminal charge(s) or conviction(s) to their supervisor and the HRO.
- 5.5.3 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 by the HRO and/or investigation by the appropriate law enforcement agency. The employee must cooperate fully during the review process.
- 5.5.4 The HRO conducts the analysis outlined in Section 6 and assists the employee's department/unit in determining appropriate disciplinary action in such cases, including dismissal, depending on the facts and circumstances surrounding the arrest or conviction.

6 ANALYSIS OF CRIMINAL HISTORY RECORD INFORMATION AND SUBSEQUENT ACTION

- 6.1 HRO will complete the analysis and subsequent actions in accordance with System Regulation *33.99.14*.
- 6.2 If the department/unit head disagrees with the conclusion of the HRO and wishes to employ, continue the employment of, or not discipline the individual, the divisional vice president must approve.

7 APPEALS

Appeals of employment actions taken under this rule will be conducted in accordance with the requirements of System Regulation *33.99.14* and related university rules or procedures.

Related Statutes, Policies, or Requirements

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

University Rule [*08.01.01.R2 Civil Rights Compliance*](#)

University Procedure [*32.01.01.R0.01 Grievance and Appeal Process for Faculty Members*](#)

University Procedure [*33.99.01.R0.01 Employment Practices*](#)

Revision History

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Contact Office

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