

MAY 17 2012

UNIVERSITY OF HOUSTON SYSTEM  
ADMINISTRATIVE MEMORANDUM

**UCC Certified**

SECTION: Human Resources

NUMBER: 02.A.37

AREA: General

SUBJECT: Security Sensitive Positions

RECEIVED MAR 06 2012

1. PURPOSE

- 1.1. The purpose of this ~~administrative memorandum~~ document is to establish a policy allowing component universities to designate certain positions as security sensitive and to set forth guidelines for the hiring of employees to fill these positions as prescribed by Section 51.215 of the Texas Education Code.
- 1.2. This policy is applicable to all positions, full and part-time, permanent and temporary, in all university programs, regardless of funding source, whenever that job is considered security sensitive or the employee will be working in a security sensitive area. This policy applies to both internal and external candidates for these positions.

2. POLICY

- 2.1. Chapter 51, Section 51.215 of the Texas Education Code enables institutions of higher education to designate certain positions as security sensitive and to obtain criminal history record information related to applicants for these positions.
- 2.2. Positions that ~~may~~ must be designated by component universities as "security sensitive" are those positions of special trust in which employees have access to or control of activities, systems, and/or resources that are subject to misappropriation, malicious mischief, damage, and/or loss or impairment of communications or control.

Those positions that ~~may~~ must be designated by component universities as "security sensitive" shall be restricted to and identified from positions that:

- a. handle currency;
- b. have access to ~~confidential information and/or the capability to create, delete, or alter records in any of the System or component university student, financial, personnel, payroll, or related computer databases or to research databases that may contain trade secrets~~ a computer terminal;
- c. have routine access to building master control and key systems;
- d. are responsible for the care or instruction of children; or

e. work in an area of the institution which has been designated as a security-sensitive area.

2.3. Each component ~~of the University of Houston System is responsible for designating~~ must designate ~~those~~ the positions satisfying any of the criteria listed in Section 2.2(a) through 2.2(e) above ~~considered~~ to be security sensitive. ~~No other positions can be designated as security sensitive positions.~~ Positions designated as security sensitive will be clearly identified as security sensitive in job descriptions and advertisements for job applicants.

2.4. All applicants for security sensitive positions will undergo a criminal history record investigation. Applicants who decline to submit to a criminal history record investigation or fail to provide required information may be denied employment for a security sensitive position. Employment in a job that is designated as security sensitive is contingent upon satisfactory completion of the criminal history record investigation.

2.5. Nothing in this policy shall be used as the basis for discrimination or retaliation against any individual or group on the basis of race, sex, age, color, religion, national origin, disability, sexual orientation, genetic information, or veteran status.

### 3. POLICY PROVISIONS

3.1. Hiring authorities desiring to designate a position as security sensitive must contact the ~~Human Resources Department~~ component university human resources department for guidance in establishing such a designation. Positions may be added to or deleted from the list of security sensitive positions, available in the component university hHuman rResources dDepartment, only upon approval by the component university Chief chief Executive human resources officer Officer (CEO) or designee.

3.2. After selection of the final candidate, the hiring authority must contact the ~~Human Resources Department~~ component university human resources department to request a complete criminal history record investigation of the selected applicant. ~~No job offer may be extended until the request for the criminal history record investigation is submitted by the component Human Resources Department to the Chief of Police or another appropriate authority.~~ Any job offer must be specified as conditional until successful completion of this investigation.

3.3. The criminal history record investigation will be conducted by either the component University university Chief chief of Police police or another appropriate authority. This does not preclude component universities from conducting a background investigation which may include finger printing, a driving record check, and/or a credit check. All data obtained in the criminal

history record investigation will be privileged and confidential to the fullest extent permitted by applicable law. This information will be maintained by the investigating authority, and will not be released or otherwise disclosed to any other person or agency except as provided herein or unless required by law.

- 3.4. ~~The~~ ~~Either the University component university~~ ~~Chief~~ ~~chief of Police~~ ~~police~~, or other designated authority, will report to the component university chief Human resources officer ~~Director~~ that the applicant has "no criminal history" or has a "positive criminal history" and will provide information as to the nature of any positive criminal history.
- 3.5. The ~~Human Resources Director~~ ~~component university chief human resources officer~~ will evaluate any positive criminal history against job-related criteria and will make a recommendation as to whether the applicant is "employable" or "not recommended for employment." An applicant with no criminal history will be recommended as "employable."
- 3.6. If the applicant is "not recommended for employment," the ~~Human Resources Director~~ ~~component university chief human resources officer~~ will issue a report to the hiring authority, who may accept the recommendation and reject the employment of the applicant, or may request permission to hire. A request for permission to hire will be submitted to the ~~CEO or designee~~ appropriate vice president or division head through the component university procedures. Only the appropriate vice president or division head ~~CEO or designee~~ can authorize hiring someone with a positive criminal history.
- 3.7. The appropriate vice president or division head ~~CEO or designee~~ will notify the ~~Human Resources Director~~ ~~component university chief human resources officer~~ of the hiring decision. The ~~Human Resources Director~~ ~~chief human resources officer~~ will, in turn, notify the designated hiring authority. The hiring authority will either proceed with finalization of the hiring process, or, ~~in the case of a decision~~ not to hire the applicant.
- 3.8. Criminal History Information Obtained From a Third Party Agency - When the component university obtains criminal history on an applicant from a third party agency other than a police department or another state agency, such as the Texas Department of Public Safety, the component university must comply with the requirements of the Fair Credit Reporting Act (FCRA) as detailed below.
- a) In the event the decision is not to hire the applicant, the chief human resources officer, ~~will notify the conditional employee of the decision and select another applicant. In the latter case, the conditional employee will be terminated immediately~~ notifies the applicant of the component university's intention to deny him/her employment, based in whole or in part on his/her consumer report, as required by the Fair Credit Reporting

Act (FCRA) and enclose a copy of the applicant's criminal history report, as well as a statement of rights under the FCRA.

3.8 b) — The applicant will be provided five business days from the date of the notice to explain or rebut the information included in the report. If appropriate justification is submitted, the component university chief human resources officer may request that the applicant's file be reconsidered for employment; otherwise, the applicant will be notified that his/her application for employment was denied, and that the decision was influenced in whole or in part by the consumer report received as part of their background check. The applicant will also be notified that he or she may obtain their criminal history report at no charge directly from the third party that provided the criminal history report to the University.

3.9 — Applicants have the right to dispute the accuracy or completeness of any information in their consumer report by contacting the appropriate credit bureau.;

3.8910. Any breach of confidentiality at any point in the process defined herein may be grounds for disciplinary action, up to and including termination.

#### 4. PROCUREMENT AND MAINTENANCE OF RECORDS

- 4.1. The criminal history record information request shall be handled by the component Uuniversity Cchief of Ppolice, or other appropriate authority, who will be responsible for the confidentiality of the information.
- 4.2. If criminal history record information on the individual does not exist, information obtained during the investigation will be ~~destroyed by the University Police Department after the expiration of the probationary term of employment in accordance with the Records Retention policy (SAM 03.H.01).~~ kept by the component university chief of police, or other appropriate authority, and destroyed by the appropriate authority (or directly by the chief of police in the event the criminal history information is obtained from the Texas Department of Public Safety) ~~after two years of the personnel action, as per.~~ See 41 C.F.R. § 60-1.12; Texas Government Code § 411.094.
- 4.3. Details of positive criminal history record investigation checks will be sealed in an envelope identified by the ~~individual's~~ individual's name and marked ~~"not to be opened except by Human Resources, Legal Counsel, or the appropriate Vice President."~~ Such records will be located as specified in Section 3.3, ~~and will be maintained during the employee's period of employment and for a minimum of seven (7) years after termination of employment, in accordance with the Records Retention policy (SAM 03.H.01).~~ for a period of two years, and then destroyed by an appropriate authority ~~the~~ (or directly by the component university chief of police ~~;~~ in the event the criminal history information is obtained from the Texas

Department of Public Safety ~~or other appropriate authority~~), as per. See 41 C.F.R. § 60-1.12; Texas Government Code § 411.094.

5. REVIEW AND RESPONSIBILITIES

Responsible Party: Associate Vice Chancellor for ~~Administration and~~ Finance

Review: ~~Annually~~ Every five years, on or before ~~September~~ December 1

6. APPROVAL

Approved: \_\_\_\_\_  
Executive Vice Chancellor for Administration and Finance

~~William P. Hobby~~ \_\_\_\_\_  
 Chancellor

Date: February 23, 1996

**REVISION LOG**

<u>Revision Number</u>	<u>Approval Date</u>	<u>Description of Changes</u>
<u>1</u>	<u>02/23/1996</u>	<u>Initial version</u>
<u>2</u>	<u>TBD</u>	<u>Applied revised SAM template and added new Revision Log. Added access to a computer terminal to the “security sensitive” requirements in Section 2.2.b. In Section 2.3, added the requirement that no other positions can be designated as security sensitive positions that do not meet the parameters in Section 2.2 a through e. In Section 3.2, the hiring authority must contact the component university human resources department to request the criminal history record examination. In Section 3.6, only a vice president or division head can authorize hiring an applicant with a positive criminal history. Added Section 3.8 on criminal history information obtained from a third party agency with additional information on the Fair Credit Reporting Act (FCRA); the applicant has five business days to explain or rebut the information included in the report. Removed Section 3.9. In Section 4.2 and 4.3, the component university chief of police destroys the criminal history information obtained after two years of the personnel action per Texas Government Code Section</u>

		<u>411.094. Changed the responsible party to AVC for Finance. Added the EVC for Administration and Finance to the approval cycle. Changed the review period from annually on or before September 1<sup>st</sup> to every five years on or before December 1<sup>st</sup></u>
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