



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

## Operating Policy and Procedure

### HSCEP OP: 70.20, **Employment Background Screening Policy**

**PURPOSE:** It is important that Texas Tech University Health Science Center El Paso's (TTUHSCEP) academic, research and patient care missions are supported by qualified faculty and staff, with a safe and secure environment for all TTUHSCEP constituents, including students, visitors, patients, faculty and staff. It is also important that TTUHSCEP take meaningful actions to protect its funds, property and other assets. This policy is intended to support the verification of credentials, criminal history, previous employment, and to check applicant names against sex and violent offender registries, health care sanction lists and government contractor debarment lists in order for the institution to make appropriate employment decisions that assist TTUHSCEP in meeting its obligation to create an environment that fosters excellence in academics, research and patient care.

**REVIEW:** This TTUHSCEP OP will be reviewed by January 15th of each even-numbered year (ENY) by the Executive Director for Human Resources (EDHR), the Institutional Compliance Officer, and the Senior Associate General Counsel or designees, with recommendations for revisions submitted to the Chief Financial Officer or designee by February 15th.

### **POLICY/PROCEDURE:**

1. It is the policy of Texas Tech University Health Sciences Center El Paso (TTUHSCEP) that all new faculty and staff, part-time and temporary employees, including student employees, who are paid or to be paid by TTUHSCEP, including volunteers, have credentials, criminal history, and previous employment verified. In addition, selected applicants' names will be checked against sex and violent offender registries, Texas state and federal health care sanction lists and government contractor debarment lists. Selected applicants for positions of financial trust who will handle money or assets will be subject to a credit check. Applicants selected for a faculty or staff position are required to complete the required verifications in order to be considered further for employment.
2. The names of all TTUHSCEP employees will be checked monthly and annually against the federal and state OIG, and other applicable exclusion lists. See HSC OP 52.11, Sanction Check Process. An applicant whose name does appear on any of these lists may not be eligible for employment with TTUHSCEP. A faculty or staff employee whose name does appear on any of these lists may be subject to termination for cause through the applicable policies.
3. Faculty and staff are required to notify their immediate supervisor of any conviction of a Class A misdemeanor, or any drug, assault or theft conviction, no later than three (3) business days after such conviction, which they receive during the term of their employment. Failure to report a conviction may be considered grounds for termination for cause in accordance with the applicable policies. Convictions will be reviewed, and a determination concerning continued employment will be made by the Executive Director for Human Resources, the employee's supervisor, and the appropriate Dean or Chief Financial Officer, in consultation with a representative from the Office of General Counsel.

**NOTE: No applicant previously convicted of a felony or conviction of a misdemeanor involving a crime or violence or moral turpitude, including probation or deferred adjudication, shall be eligible for employment without the written approval of the appropriate Chief Financial Officer or Dean.**

4. Records of faculty, staff and applicant background verifications are confidential. Employee background information will be maintained by the Human Resources Department and will be active for six months. The unauthorized disclosure of background information will be considered a breach of confidentiality, and the individual or individuals involved will be subject to discipline up to and including termination in accordance with the institution's policies. An individual who is the subject of background verifications may receive a copy directly from the consumer reporting agency that provides the report.

#### **DEFINITIONS:**

1. "Employee" is defined as any person employed by TTUHSCEP, whether full or part-time, faculty or staff, regular or temporary, including student employees.
2. "Applicant" is defined as any person who applies for an open position with TTUHSCEP utilizing the Applicant Tracking System, whether the individual is an outside candidate or a current employee. The application signifies the formal expression of interest from the applicant.
3. "Credit history check" means checking the credit history of the selected faculty or staff applicant. (Federal laws prohibit discrimination against an applicant or employee as a result of bankruptcy.)
4. "Criminal history check" means a national criminal history check verifying that the selected applicant or employee does not have any undisclosed criminal history in every jurisdiction where the applicant or employee currently resides or has previously resided.
5. "Educational verification" means ensuring the selected faculty or staff applicant possesses all educational credentials beyond high school listed on the application, resume or cover letter or otherwise cited by the candidate that qualify the individual for the position sought.
6. "Employment verification" means ensuring the selected faculty or staff applicant actually worked in the positions listed on the application, resume, or cover letter or otherwise cited by the candidate that qualify the individual for the position sought, as well as all employment during a period of at least seven (7) years immediately preceding application at TTUHSCEP. This verification should include dates of employment and verification of last position held.
7. "License verification" means ensuring the selected faculty or staff applicant possesses all the licenses listed on the application, resume or cover letter or otherwise cited by the candidate that qualify the individual for the position sought and verification of any license required for the position, including verification of the disposition of such licenses. This includes any motor vehicle driver's licenses required for the position.
8. "Sex and violent offender registry check" means verifying the selected faculty or staff applicant or employee does not have undisclosed convictions of certain sex and violent crimes in every jurisdiction where the faculty or staff applicant or employee resides, or where the faculty or staff applicant or employee has resided over the past seven (7) years.
9. "Security sensitive position" is restricted to those positions described in Texas Education Code, Section 51.215(c) and Texas Government Code, Section 411.094, as those sections may be amended from time to time.

#### **POLICY PROVISIONS:**

1. **Faculty and Staff Employees:**
  - a. All new faculty, staff, temporary, PRN (Pro re nata, "as the situation arises"), recurrent faculty, and student employees shall have the following background checks completed as a condition of employment with TTUHSCEP. For each of the background checks identified in this paragraph, the Human Resources Department will initiate the background check:

- i. A criminal history check will be initiated through a third party vendor for applicant(s) that have accepted a contingent offer to work for TTUHSCEP with results going to the Human Resources Department. In addition, a criminal history check of all visa holders' prior countries of residence may be conducted. Further, all individuals including, but not limited to U.S. Citizens, Permanent Residents, etc., who have previously resided in foreign countries at any time, may also undergo a criminal history check with regard to activities in the foreign countries.
  - ii. Sex and violent offender registry check.
  - iii. Healthcare Sanctions Lists – Federal and State OIG Exclusion Lists.
  - iv. Government Contractor Debarment List.
- b. In addition to the background checks listed in 1.a, all applicants for faculty and staff positions performing duties in any of the following job titles/positions shall also have the following checks completed as a condition of employment with TTUHSCEP: President, Executive Chief Financial Officer, Chief Financial Officer, Associate or Assistant Chief Financial Officer, Dean, Associate or Assistant Dean, and Academic Department Chairs. Additional checks will be performed for applicants for other positions which handle money or assets of the institution, such as business office personnel and certain patient services positions in the clinics identified by the Human Resource Department and approved by the AVPHR. The additional background check shall include:
- i. Credit history check.
- c. If TTUHSCEP has performed any of the above verification or history checks on an individual within the past six (6) months, a new verification or history check of that specific category may not be required. The results of the previously performed verification and/or history check may be considered in any pending employment decision.
- d. If an applicant has been separated from TTUHSCEP longer than 30 days, the applicant must have a new background check and credit check (if required) performed to ensure the applicant meets all of the hiring requirements.
- e. An employee who transfers from TTU, TTUHSC or Angelo State University to TTUHSCEP may be subject to a background check, exclusion sanctions check, and/or credit review if such reviews have not been completed within six (6) months of the hire.
- f. A background check must be completed for a current TTUHSCEP employee who is under consideration for a promotion, transfer or position reclassification.

**RESPONSIBILITIES:**

1. Responsibility of Faculty or Staff Applicants for Employment:

It is a condition of employment eligibility that all students, temporary, PRN, recurrent faculty, and staff applicants selected for employment complete an online disclosure and consent for background verification as instructed by TTUHSCEP. Prior to beginning employment, the applicant must have successfully completed all pre-employment requirements.

2. Responsibilities of the Human Resources Department:

- a. All offers of employment, oral and written, shall include the following statement: "This offer is contingent on the university's verification of credentials and other information required by state and federal law, and TTUHSCEP policies, including the completion of a criminal history check (and credit check, when required by this policy)."

- b. Employment verification – This verification will be completed and documented by the department prior to the faculty or staff candidate beginning work, but after the submission of an application via the applicant tracking system.
- c. Educational and License verifications – This verification will be completed by the department before the faculty or staff candidate begins work, but after the submission of an application via the applicant tracking system.
- d. Criminal history check and sex and violent offender registry check – In all cases requiring such, these background checks shall be initiated after acceptance of the conditional offer of employment, but prior to the actual date of beginning work.
  - i. The individual's official full name and any other names (for example, maiden names, aliases), current street address, information regarding current professional licenses, date of birth and social security number will be obtained, along with a release from the person via email verification provided by a third- party with whom TTUHSCEP has contracted these associated services.
  - ii. If the criminal history check indicates no convictions, the vendor will inform the Human Resources Department , who, in turn, will inform the hiring department and applicant that the employment offer is confirmed.
  - iii. If the criminal history check indicates convictions, the third party vendor will inform the Human Resources Department. The campus human resource office will provide a letter of possible adverse action and a copy of the report to the individual, as required by the Fair Credit Reporting Act. The individual will receive the pre-adverse action disclosure that includes a copy of the individual's consumer report and a copy of "A Summary of Your Rights under the Fair Credit Reporting Act", a document prescribed by the Consumer Financial Protection Bureau. The applicant has up to five business days following the receipt of the report to contact the consumer reporting agency to dispute any items on the report.
  - iv. If the criminal history check reveals convictions, the Human Resources Department will review the report will evaluate each conviction, including any additional information the individual provides, before the offer of employment is confirmed or withdrawn. The existence of a conviction does not automatically disqualify an individual from employment. Relevant considerations may include, but are not limited to, the nature of each offense, severity and number of offenses, the relevance of the conviction, the length of time between the offense and the employment decision, and the relationship and offense has to the duties and responsibilities of the position and the accuracy of the information provided in the individual's employment application. Any decision to accept or reject an individual with a conviction is solely at the discretion of TTUHSCEP and the Chancellor of the Texas Tech University System (refer to Item 3. under **Policy/Procedure**).
  - v. If unreported convictions are disclosed in the criminal history check, the offer of employment may be withdrawn or if already employed, the individual may be separated from employment. The decision to reject an applicant or terminate an individual with an unreported conviction is solely at the discretion of TTUHSCEP and the Chancellor of the Texas Tech University System (refer to Item 3. under **Policy/Procedure**).
  - vi. Should the decision be made to recommend the employment of an applicant or employee who has a criminal record of moral turpitude, the written approval of the appropriate Dean or Chief Financial Officer will be required. The recommendation should be documented and forwarded through the Human Resources Department,

along with a copy of the background check document and any other pertinent information (court records, statement of applicant, etc.) relevant to the decision of the Dean or Chief Financial Officer.

- vii. In the event the result of the background check influences a decision to withdraw an employment offer, the Human Resources Department will inform, in writing, the hiring department and the individual. This adverse action can only occur after reasonable time has lapsed, generally five business days. The Human Resources Department will provide adverse action notice to the applicant that must include the contact information for the consumer reporting agency, a statement that the credit reporting agency did not make the adverse action and cannot give specific reasons for it, and a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and the applicant's right to an additional free consumer report from the agency upon request within 60 days.
- viii. All results of criminal, sex and violent offender's convictions or other information verified by the institution's third-party vendor are considered confidential and will be maintained in a dedicated, password protected, confidential database. Final disposition of the files will be in accordance with Item 2.d (iii) in the previous **Responsibilities** section.

3. Executive Director for Human Resources (AVPHR) Responsibilities:

- a. In the event a criminal conviction is found, the third-party vendor will submit the report to the Human Resources Department associated with the position who will forward a copy of the report to the Executive Director for Human Resources.
- b. The Executive Director for Human Resources will monitor the hiring decisions made as a result of background checks.
- c. The Executive Director for Human Resources will ensure that employment, criminal, and credit history background checks for applicants are conducted in the following positions: President, Executive Chief Financial Officer, Chief Financial Officer, and Associate or Assistant Chief Financial Officer, Dean, and Associate and Assistant Dean, and Academic Department Chairman.
- d. The Executive Director for Human Resources will monitor and coordinate Fair Credit Reporting Act compliance.
- e. The Executive Director for Human Resources will coordinate the receipt and payment of the third-party vendor's fees.
- f. The Executive Director for Human Resources will ensure that training for administrators and supervisors regarding the institution's background check policy is available to ensure that the policy is understood and the procedures are followed.

4. Department Responsibilities:

- a. Departments will verify and document an applicant's prior employment experience and education requirements.
- b. Any promotions, reclassifications, or job changes from within TTUHSCEP or from TTU or TTUHS to TTUHSCEP, must be communicated to the TTUHSCEP Human Resources Department to confirm that all pre-employment requirements have been satisfied. If an employee is taking on additional responsibilities that include financial trust, a credit check must be performed. Financial trust responsibilities can only be assigned upon satisfactory completion of the credit check.

- i. Exemptions to 4b. include a position reclassification that results in a title change with no change in current responsibilities nor department, career ladder promotions occurring within the same department and involuntary transfers or reclassifications.
- c. Any record created or utilized during the recruitment/selection process shall be maintained in the recruitment folder for the position in the hiring department files for at least five years.
- d. Departments will notify the Human Resources Department at the time of a contingent offer acceptance in order to assure that a timely background check is conducted (most reports are completed within three business days of submission).

#### **SANCTIONS FOR VIOLATION:**

Violation of TTUHSCEP policies, including providing false or misleading information used for any of the above background checks, will result in the withdrawal of a candidate from consideration for hiring. If the applicant is a current employee who refuses to consent to a background check, such refusal is grounds for disciplinary action.

#### **APPEALS:**

Decisions regarding the withdrawal of an employment offer or termination of employment made as a result of the negative results of a background check may be appealed to the appropriate Dean of the School or Chief Financial Officer. The decision of the Dean or Chief Financial Officer not to employ is final. The decision to employ an applicant with negative results on the pre-employment requirements must have written approval from the Department Head. A recommendation to employ an applicant with a previous conviction of a felony or conviction of a misdemeanor involving a crime of violence or moral turpitude (including probation or deferred adjudication) must be approved by the appropriate Dean or Chief Financial Officer. All written approvals must be received by the Executive Director for Human Resources prior to the applicant's first day.

If an applicant believes that information obtained in the pre-employment check adversely affected his/her employment, the applicant must contact the third-party vendor to dispute findings. Disputes related to this information are the sole responsibility of the applicant. TTUHSCEP has no obligation to hold a position open while the applicant disputes information in the report.

#### **RIGHT TO CHANGE POLICY:**

TTUHSCEP reserves the right to change, modify, amend or rescind this policy in whole or part at any time.

**NOTE: The language used in this document does not create an Employment Contract between the Employee and Texas Tech University Health Sciences Center El Paso (TTUHSCEP).**

#### **Reference**

*Texas Education Code § 51.215*  
*Texas Government Code § 411.094*  
*Texas Government Code § 411.135*  
*Texas Government Code § 559.003*  
*Texas Government Code § 411.085*  
*Texas Government Code § 411.082*  
*Texas Government Code § 411.0845*  
Fair Credit Reporting Act  
*Regents' Rules – Chapter 3*