TO: Academic Council*

COPY TO:  David Daniel          Dennis Kratz
          Hobson Wildenthal    James Marquart
          Andrew Blanchard    Bert Moore
          Calvin Jamison      Hasan Pirkul
          John Wiorkowski     Myron Salamon
          Sheila Amin Gutierrez de Piñeres Mark Spong
          Austin Cunningham
          George Fair
          Serenity King
          Abby Kratz

FROM: Office of Academic Governance
      Vicki Carlisle, Academic Governance Secretary

SUBJECT: Academic Council Meeting

The Academic Council will meet on Wednesday, March 2, 2011 at 2:00 p.m. in the Osborne Conference Room, ECSS 3.503. Please bring the agenda packet with you to the meeting. If you cannot attend, please notify me at vicki.carlisle@utdallas.edu or x6751.

Attachments

2010-2011 ACADEMIC COUNCIL

Cy Cantrell          Grace Bielawski, Student Government President
R. Chandrasekaran
David Cordell**      Murray Leaf*
Dennis Miller
Tim Redman
Liz Salter
Richard Scotch
# AGENDA

## ACADEMIC COUNCIL MEETING
March 2, 2011

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UNAPPROVED AND UNCORRECTED MINUTES

These minutes are disseminated to provide timely information to the Academic Council. They have not been approved by the body in question, and, therefore, they are not the official minutes.

ACADEMIC COUNCIL MEETING
February 11, 2011

PRESENT: Murray Leaf, Cy Cantrell, R. Chandrasekaran, David Cordell, Tim Redman, Richard Scotch
ABSENT: Dennis Miller, Liz Salter
GUESTS: Abby Kratz

1. CALL TO ORDER, ANNOUNCEMENTS & QUESTIONS
Speaker Leaf called the meeting to order. There were no announcements or questions.

2. APPROVAL OF MINUTES
A correction was noted to add Chandra in attendance at the December meeting. Cy Cantrell moved to approve the minutes as amended. Richard Scotch seconded the motion. The minutes were approved as amended with one abstention.

4. SPEAKER’S REPORT – MURRAY LEAF
Speaker Leaf distributed a written copy of his report. A copy is attached as a part of these minutes.

5. FACULTY ADVISORY COUNCIL REPORT – MURRAY LEAF
Speaker Leaf did not have a formal report to give. One of the major issues at the last meeting was an update on the legislative session, but there is nothing for us to do at this time. The UT-Austin financial exigency policy was discussed and a great deal of time was spent on the criminal background check issues. A discussion of the criminal background check policy is on the agenda for today’s meeting.

6. CEP PROPOSALS –
A. CHANGES TO GRADUATE CATALOG COPY
Cy Cantrell reported that the CEP met to review the first forty pages in the graduate catalog. All of the substantive changes have been passed by the Senate already. There was very little discussion of the first forty pages in the CEP meeting, and the CEP did not attempt to edit the school sections. Richard Scotch moved to place the graduate catalog revisions on the Senate agenda. R. Chandrasekaran seconded the motion. The motion carried and the item will be placed on the Senate agenda.

B. REVISED DISCIPLINARY ACTIONS POLICY (CATALOG)
Cy Cantrell presented this information and reported that this was discussed at some length in the CEP meeting. The wording is delicate and can make a difference in our advising policy. The goal of the revisions was to make it clear what the sequence of actions is and remove a
form of limbo where students could remain on academic probation forever. The wording on
the academic warning section has been changed to say that “Academic Warning should be a
wake-up call for students who have not been able to make the adjustments required of
students on Academic Probation. If a student is placed on Academic Warning, the student
should consider dramatic alterations in all of the circumstances that affect their academic
progress. The student should meet with their advisor and professors or Associate Dean to
determine an academic path to success.”

Tim Redman pointed out a couple of items that needed to be corrected. The wording on
pages one and three need to be consistent in referring to the first and second academic
suspending. Additionally, the cumulative and major GPAs should be consistent.

Cy Chandrasekaran moved to place this item on the agenda with the proposed changes. R.
Chandrasekaran seconded the motion. The motion carried and the item will be placed on the
Senate agenda.

7. HOP COMMITTEE PROPOSALS –

A. REVISED TRAVEL AND RISK RELATED ACTIVITIES POLICY

Abby Kratz presented this information. She stated that the copy distributed in the agenda
packet was not a mark-up copy but rather a clean copy on the new template that is being
used for HOP policies. There were so many changes that she felt the clean copy would be
easier to follow. The majority of the changes were relating to business practices that were
imbedded in the policy. She called attention to one part of the policy that was a change –
section 3(C) which states “If an incident of a serious nature occurs during travel and
involves inappropriate behavior by a student, the faculty or staff member may immediately
end the student’s participation in the activity by making a reasonable effort to provide the
student access to public transportation for an unaccompanied return to the University at the
student’s expense.” This is in response to an incident that occurred last year. Tim Redman
felt that the wording on page two under Procedures – “Questions regarding the policies,
procedures or forms should be directed to the Office of the Provost at extension 6742.”
should be more specific and direct questions to a person rather than an extension. After
discussion it was agreed that this would be changed to simply read “should be directed to
the Office of the Provost.” Dr. Kratz agreed to make this change and will send a corrected
copy for the Senate agenda packet.

B. RESEARCH TITLES

Dr. Kratz presented this information and stated that this is primarily just a cleaning up of the
current policy to reflect the way the titles are actually used.

Tim Redman moved to place both items on the Senate agenda. Cy Chandrasekaran seconded. The
motion carried and the items will be placed on the Senate agenda.

8. REVISION TO THE CHARGE OF THE COMMENCEMENT COMMITTEE

Speaker Leaf presented this item and explained that the changed is being made at the request
of the Committee. The proposed change eliminates reference to the Special Events
Coordinator since that position no longer exists.

Richard Scotch moved to place this item on the Senate agenda. Cy Chandrasekaran seconded. The
motion carried and the item will be placed on the Senate agenda.
8. **Criminal Background Check Policy**

Speaker Leaf presented this information and referred Council members to the draft policy that was distributed prior to the meeting. A copy of this draft is attached to these minutes. Cy Cantrell began the discussion by asking for a definition of the phrase “master key”. Speaker Leaf explained that the State of Texas defines this as a building or departmental master key. He is certain that the UT System has de-specified this definition but we could specify this definition. Dr. Cantrell stated that even with the increase in use of electronic locking systems, physical keys are still very much in use, particularly where faculty offices are involved because faculty offices, with very few exceptions, are not on the electronic lock system. The electronic locks normally control classrooms and laboratories. This presents a situation with a very confusing mix of possibilities. It is possible for an individual to have access to the outer doors to a building by the Comet Card. Is this considered a building Master? It likely is not, because it does not give access to any of the interior rooms. Speaker Leaf feels that this issue is up to us to specify what constitutes a Master key to avoid having everyone with level three security clearance.

Dr. Chandrasekaran asked if the intent of this policy is to prevent theft of items or to prevent people from being hurt. Speaker Leaf replied that it is primarily to keep people from being hurt. We do have a current criminal background check policy but it does not apply to faculty. An incident occurred last year on another UT campus in which a recently hired person sexually assaulted a young woman. After the incident occurred it became apparent that if a background check had been done it would have been discovered that this individual had a criminal record. This led to the determination by the Chancellor and the Regents that we should do more criminal background checks.

Speaker Leaf noted that in the proposed policy faculty are classified as level one or level two. Level two is divided between those who require the national check and those who do not. Both of these would go through the secure site and neither would require any sort of authorization. Both require for audit purposes that the person on whom the check is being done sign a form acknowledging that they are aware the check is being performed.

It was agreed that in section 2.112 the words “or control of a master key” should be removed from this definition.

National searches will be fingerprint based. There is a single provider who provides this service for the state. This company has over seventy locations throughout the state. Dr. Cantrell made the point that since there are scores of fingerprints that were taken on paper that have never been digitized, the question of efficacy of this system must be considered. Fingerprints are not retained when they are given.

Speaker Leaf feels that these same types of procedures are available for applicants from other states.

Speaker Leaf called attention to section 3. We do not want normal career promotions to be considered an application for a position. There is a distinction between an applicant and a current employee.
After further discussion, the Council agreed that this item should not be placed on the Senate agenda at this time. Speaker Leaf will continue to work on this with OGC and inform the Senate as part of his Speaker’s Report that the discussion is ongoing and offer a copy of the policy for review for anyone interested. He will also send the policy to Dr. Daniel for his review.

The Agenda for the February Academic Senate meeting is as follows:

- CEP proposals –
  - Graduate Catalog Revisions
  - Revised Disciplinary Actions Policy
- HOP Committee Proposals –
  - Revised Travel and Risk Related Activities Policy
  - Research Titles
  - Update on Web-based Election Procedure
  - Revision to the Charge of the Commencement Committee

Cy Cantrell moved to approve the agenda for the January Senate meeting. Richard Scotch seconded the motion. The agenda is approved.

9. ADJOURNMENT

There being no further business, Speaker Leaf adjourned the meeting.

| APPROVED: ___________________________ DATE: ___________________________

Murray J. Leaf
Speaker of the Senate
Criminal Background Check Policy
(considering all positions security sensitive)

1. PURPOSE:

1.1. The University of Texas at Dallas is committed to promoting campus safety and the security of personal and University property, consistent with the requirements of law and prudent financial and programmatic practices. As part of this commitment, the university seeks information on the possible criminal history of all individuals under consideration for appointment to full time positions and all positions deemed “security sensitive” under Texas law. The Texas Education Code 51.215 b says: Security-sensitive positions shall be restricted to employees who handle currency, have access to a computer terminal, have access to a master key. The University of Texas System understands “computer terminal” to mean a computer. “Access” is understood to mean possessing a university netid. It follows that virtually all positions are security sensitive. This policy defines the acquisition and use of such information by the University.

2. CLASSIFICATION OF SECURITY SENSITIVE POSITIONS.

2.1. All security sensitive positions will be classified to indicate the level of security check required. Level 1 is the lowest. Level 3 is the highest. The general definitions of the levels are:

2.1.1. Level 1: are faculty and staff positions not involving handling of cash, control of a master key, or access to materials and equipment that pose a serious safety hazard.

2.1.2. Level 2 are faculty and staff positions not involving handling of cash, ability to access and change financial or administrative records, or control of a master key but which do involve access to hazardous materials or equipment, especially valuable university equipment, or controlled substances. Course materials and grades posted through the university academic software are not intended to be within the meaning of “administrative records” for this purpose.

2.1.3. Level 3 are administrative and staff positions presenting the opportunity for embezzlement or controlling facilities that could pose a threat to the overall safety of the campus.

3. WHEN CRIMINAL BACKGROUND CHECKS ARE REQUIRED:

3.1. For any applicant who is not a current employee and who is under final consideration for a full-time or part-time staff or faculty position, following normal screening and selection processes.
3.2. For a current employee, staff or faculty, who is under consideration for a transfer, promotion or reclassification from a non-security position or a level 1 security sensitive position to a level 2 or 3 security sensitive position.;

3.3. For current employees, for whom the University has not previously obtained a criminal background check.

3.4. For current employees, students, and volunteers at the discretion of the President, or the President’s designee, if the requesting official determines that obtaining such information serves an official or business purpose. An example of business purpose includes but is not limited to, when the university engages in activities involve minors such as summer camps, research activities or educational outreach.

3.5. A criminal background check is not required when a position reclassification results in a title change with no change in current responsibilities, or for a promotion or other advancement that is part of an employee’s normal career progression such as faculty promoted to tenure, or from Associate Professor to Full Professor [p3]

4. Criminal Background Check Sources

4.1. Applicants for non-security sensitive positions. University of Texas System institutions may utilize the following sources to obtain a criminal background check:

   4.1.1. The Texas Department of Public Safety (DPS) Crime Records Service – Public Site or other publically available local, state or federal criminal record sources.

   4.1.2. Private vendors that offer criminal background check services that obtain information that is public record.

4.2. Applicants for all level 1 and level 2 security sensitive positions not specifically designated as subject to a national criminal history record check. University of Texas System institutions may utilize the following sources to obtain a criminal background check:

   4.2.1. The DPS Crime Records Service – Secure Site1. This site may be used to obtain a name-based check or a national criminal history record information check, by using the consolidated response program or the electronic clearinghouse) as authorized and made available by DPS.

   4.2.2. Private vendors that offer criminal background check services using information in the public record.

4.3. Applicants for level 3 Security sensitive positions. Level 3 positions are designated as subject to a national criminal history record check.

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1 This source may be accessed to perform a criminal background check on an applicant for a security sensitive position. This database shall not be accessed to perform a criminal background check on an applicant for a non-security sensitive position or on a current employee who is not an applicant for a security sensitive position unless permitted by state law.
4.3.1. The DPS Crime Records Service – Secure Site\(^2\). This site may be accessed to obtain a national criminal background check by using the consolidated response program or the electronic clearinghouse as authorized and made available by DPS.

4.4. **Current employees or individuals who are not applicants.** University of Texas System institutions may only utilize the following sources to obtain a criminal background check, except when authorized by law to use a secure site.

4.4.1. The Texas Department of Safety (DPS) Crime Records Service – Public Site or other publically available local, state or federal criminal record sources.

4.4.1.2. Private licensed vendors that offer criminal background check services based on information in the public record.

4.5. When a criminal background check is required by a specific state or federal law using a specific source of criminal background check information and/or certain procedures, the University will comply with such laws.

5. **USE OF INFORMATION:**
Criminal record information will be used for the purpose of determining whether the individual is qualified for the position at UT Dallas and does not pose a safety or security risk. A determination will be made on a case-by-case basis on factors such as the specific duties of the position; numbers of offenses; nature of each offense; length of time intervening between the offense and the employment decision; employment history; efforts at rehabilitation; and accuracy of the information that the individual provided on the employment application. The information will not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age or sexual orientation.

5.1. The results of a criminal background check may be grounds for termination according to university procedures.

5.2. The University will not make an adverse employment decision on the basis of criminal record information obtained under this policy without providing the person an opportunity to respond in accordance with Section 8 below.

6. **DEFINITIONS:**
6.1. *Applicant:* An individual who applies for a position within The University of Texas System, but does not include an individual who receives a position reclassification that does not result in a title change with no change in responsibilities, or an individual who receives a promotion or other similar advancement in their normal career path, such as faculty promoted to tenure, or from Associate Professor to Full Professor.

6.2. *Controlled Substance:* This term has the meaning assigned in Texas Health & Safety Code §481.002, as that section may be amended from time to time.

\(^2\) See footnote 2 above.
6.3. *Criminal Conviction Record Information:* Public information maintained by the Department of Public Safety, as provided in Texas Government Code §411.135.

6.4. *National Criminal History Record Check (NCHRC):* A criminal history record check obtained from both the Texas Department of Public Safety and the Federal Bureau of Investigation based on fingerprint identification information, or a criminal record check obtained from a private vendor based on national criminal records.

6.5. *Hiring Official:* Administrative official seeking to fill a vacant position, such as the Dean in the Division of Academic Affairs, the Director or the Department Head, in other divisions, or the faculty member in charge of a laboratory or other facility.

6.6. *Select Agent:* This term has the meaning assigned in 18 U.S.C. §175b, as that section may be amended from time to time.

6.7. *Security Sensitive Position or area:* Security sensitive positions or areas are those U T DALLAS positions or areas described in Texas Education Code § 51.215 (c) and Texas Government Code § 411.094 (a) (2), as those sections may be amended from time to time; positions that have responsibility for providing patient care or for providing childcare in a childcare facility, as that term is defined in Texas Human Resources Code §42.002 (3), as it may be amended from time to time; and positions that have direct access to, or responsibility for, pharmaceuticals, select agents, or controlled substances; or physical areas such as laboratories or facilities on the university campus that have been designated as security sensitive by the administrative officer or faculty member responsible for them.

6.7.1. In determining which specific positions to designate as security sensitive, the Executive Vice President and Provost and the Senior Vice President for Business Affairs will consider whether departments or other units perform functions that may pose increased risks at the University, considering factors including but not limited to the following:

6.7.1.1. All senior level administrative positions;

6.7.1.2. Responsibility for the preparation, maintenance or approval of the financial, payroll, personnel or purchasing systems;

6.7.1.3. Direct access to, or responsibility for, cash, checks or University property, disbursement or receipts;

6.7.1.4. Significant inventory control responsibilities, including receipt and release of inventory;

6.7.1.5. Responsibility for execution or approval of financial transactions;

6.7.1.6. Direct responsibility for the care, safety of security of humans or the safety or security of personal University property;

6.7.1.7. Responsibility for operating, in the course of normal job duties, University-owned or leased vehicles, machinery or toxic systems that could cause death, injury, or illness;
6.7.1.8. Direct access to, or responsibility for classified information pertaining to
the national defense;

6.7.1.9. Direct access to data protected by Federal or State law or non-disclosure
agreements, medical records, personnel records, other personnel data or
confidential criminal justice information, or to critical data processing systems.

7. PROCEDURES:
7.1. The President has designated the Executive Vice President and Provost as the official
responsible for designating which faculty positions or academic areas are security
sensitive at levels 1, 2, or 3, and the Senior Vice President for Business Affairs as the
official responsible for designating which non-faculty positions or non-academic areas
are security sensitive at levels 1, 2, or 3. Directors of administrative offices who wish to
designate certain positions/areas as security sensitive at levels 2 or 3 should notify the
Vice President for Business Affairs; faculty or academic administrators responsible for
positions/areas that they wish to designate as security sensitive at levels 2 or 3 should
notify the Provost. The Vice President for Business Affairs and Provost will keep the
Office of Human Resources [p4]apprised as to positions/areas that have been designated
as security-sensitive and OHR will identify security-sensitive positions as such in job
descriptions and vacancy advertisements. PAL comment 1/23: Dr. Leaf, per our
discussion, I gave some thought to how we might address the issue you raised about the
differing levels of security sensitive positions. Since we can’t use the secure Texas DPS
site unless an individual is an applicant for a security – sensitive position and since the
statute has a very broad definition that would authorize almost every university position
to be classified security – sensitive and since the university would likely want access to
as much information as it can obtain under the law on such applicants, my
recommendation would be to leave this section in the criminal background check policy
as it is. And to address your concern about areas of the institution that are particularly
security sensitive, there could be a separate policy that identifies these areas and
addresses other security procedures that must be complied with in these areas. Do you
think that this is a workable resolution?

7.2. Only the Chief of Police is authorized to initiate requests on behalf of the university for
criminal history record information or criminal conviction record information from the
Texas Department of Public Safety, other law enforcement agencies, or private agencies
designated by the University for this purpose.

7.3. Failure of an applicant, to consent to a criminal background check or to timely provide
identifying information required for a criminal background check, which may include
full name, other names used, date of birth, alias date of birth, sex, race, driver’s license
number or personal identification certificate number, social security number, street
address, recent photograph and fingerprints, is grounds for rejection of the application.
Falsification of an application or omission of criminal record information required to be
reported is grounds to reject an applicant or discipline/terminate an employee.

7.4. Hiring officials are responsible for requesting that an applicant who is the finalist for
a security sensitive position complete the appropriate U T DALLAS Criminal
Background Check Form. The hiring official will forward the completed form and a copy of the criminal convictions section of the finalist’s employment application to the University Police Department.

7.5. Upon receipt of a request for criminal record information, with the accompanying release form, if required, the Chief of Police will promptly obtain and review the individual’s criminal record information for the last seven years. The Chief will provide the hiring official with the results of the investigation and cause the UT DALLAS Police Department section of Criminal Background Check Form to be completed. No other notes are to be made on that form.

7.5.1. Applicants for security sensitive positions will sign the appropriate university release form. The appropriate form will be determined on whether the source of criminal records is the DPS secure site or a private vendor that offers national criminal background check services All forms will clearly specify which agency will be used and what kind of information will be sought. Release forms are as follows:

7.5.2. No form is required for a public records search on the public DPS site, but the applicant should be notified that such a search will be made.

7.5.3. The DPS secure site requires the applicant to fill in a form acknowledging that they are applying for a position that requires a search in that site. The search can be a name-based search or a fingerprint search. Under state law regulating the DPS site, the results of a name based search cannot be disclosed to the person named. The results of a fingerprint based search can be disclosed. If a search returns adverse information on an applicant in a name based search, the applicant can be told that the results were adverse and that they can request a fingerprint based search.

7.5.4. A national search, requiring that FBI criminal records be accessed, requires fingerprint identification.

7.5.5. A search using a private vendor and accessing information in government agencies protected as confidential, requires authorization under the Right to Privacy Act (1974). What can be in the reports is governed by the Fair Credit Reporting Act. The form authorizing searches under these acts will be clearly labeled and the rights being waived will be clearly indicated as required by law. Information obtained under this provision must be disclosed to the applicant or employee concerned.

7.6. If the criminal records check reveals a criminal record, the hiring official:

7.6.1. For a staff position: should consult with the Chief of Police, and the Director of Human Resources about whether the individual is acceptable for the position in accordance with III.A. If the Chief of Police or the Director of Human Resources is of the opinion that the individual may be unacceptable for the position or for continued employment, then the hiring official may not extend an offer to or
continue employment of the individual without the prior written approval of the applicable Vice President or Provost.

7.6.2. For a faculty position: should consult with the Chief of Police and Provost about whether the individual is acceptable for the position in accordance with III.A. The hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the Provost or his/her designee.

7.7. The criminal background check for level 2 security-sensitive positions requiring a national search and level 3 positions will include sources that will provide information where the individual has been employed and resided for the seven years prior to application.

7.8. Questions regarding compliance and other issues related to security sensitive positions should be addressed to the Executive Vice President and Provost or to the Senior Vice President for Business Affairs, as appropriate.

8. NOTIFICATIONS AND OPPORTUNITY TO RESPOND:

8.1.1. Pre-adverse Action Disclosure. If the University receives a report indicating that an applicant or a current employee has a criminal record the hiring official will notify the individual that such a report has been received and provide the individual with a copy of his or her report, subject to the requirements of law and DPS policy or procedure. If the report is a factor in considering adverse employment action - denying a job application, denying a promotion, reassigning or terminating the employee - before any adverse action is taken, the individual will be notified of their right to challenge the accuracy and completeness of the report with the agency that provided the report.

8.1.2. When the university has used a third-party vendor credit reporting agency to conduct the criminal record checks, the resulting report is considered a “consumer report” under the Fair Credit Reporting Act (FCRA). If a consumer report is relied on to deny employment, deny a promotion, reassign or terminate an employee, the institution will provide the current employee with a specific pre-adverse action disclosure that includes a copy of the employee's consumer report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” – a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual’s report is required to give the institution the summary of consumer rights.

8.2. Opportunity to Respond for Staff Positions Within five business days following the receipt of the report as provided in 8.1, the employee may submit additional information to the hiring official/supervisor relating to the criminal record and why it should not affect an employment decision. Before the hiring official/supervisor makes a final employment decision he/she will review all information provided to him/her with an official(s) designated by the institution and obtain a recommendation from the designated official(s) about whether to proceed with an offer or adverse employment decision.

3 The institution using a credit reporting agency for this purpose must have a procedure in place in accordance with the U. T. System Office of General Counsel issued model policy for addressing notice of address discrepancies received from a credit reporting agency regarding the subject of a report.
action. The decision of the hiring official is final and may not be appealed. However, if the individual is a current employee standard employee grievance procedures may be used. [p7]

8.3. Opportunity to Respond for Faculty Positions.

8.3.1. Outside Applicant. Within five business days following the receipt of the report as provided in 8.1., the individual may submit additional information to the hiring official relating to the criminal record and why it should not affect an employment decision. Before the hiring official makes a final employment decision, he/she will review all information provided to him/her with an official designated by the institution and obtain a recommendation from the designated official about whether to proceed with an offer. The decision of the hiring official is final and may not be appealed.

8.3.2. Current Faculty Member. Within five business days following their receipt of the report, the current faculty member may submit additional information to the Dean of their school relating to the criminal record and why it should not affect their employment. If the current faculty member so requests in writing, before the employment decision is made, the Dean or designated official will review the information with an officially designated faculty committee and obtain a written recommendation from the committee about whether to proceed with an offer or adverse employment decision. The faculty committee will be constituted completely by tenured faculty appointed by the President from the list of faculty recommended by the Senate to serve on faculty hearing tribunals in accordance with U T DALLAS PP1055. After the panel makes its recommendation, the affected faculty member may present a grievance, in person or through a representative, as described in the university grievance procedure U T DALLAS PP1050. The chief academic officer shall meet with the faculty member and then issue a written determination on the grievance. The decision of the chief academic officer is final and shall not be subject to further review. A current faculty member may invoke the procedures available under Regents’ Rules and Regulations, Rule 31008 related to termination and non-renewal where applicable.

8.4. Post-Decision Disclosure When Private Vendor Services Used To Conduct Criminal Background Check. If a consumer report has been relied on to deny employment, deny a promotion, reassign or terminate an employee after the institution has taken an adverse action, the individual must be given notice — orally, in writing, or electronically — that the action has been taken. It must include:

8.4.1. the name, address, and phone number of the credit reporting agency that supplied the report;

8.4.2. a statement that the credit reporting agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and

8.4.3. a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.
9. POST APPLICATION/EMPLOYMENT: SELF-REPORT OF CHARGES, OR CONVICTIONS REQUIRED

9.1. Applicants. Applicants must report to the hiring official any criminal charges or convictions, excluding misdemeanor offenses punishable only by fine, occurring after the date of application. Failure to do so may lead to disqualification from eligibility.

9.2. Current Employees. Continuing UT Dallas employees must report to their supervisor in writing, within five business days, any criminal convictions, excluding misdemeanor offenses punishable only by fine. Failure to do so is a violation of UT System policy and may lead to disqualification from eligibility for their position or disciplinary action as appropriate. Such disqualification or disciplinary action will be subject to standard appeal or grievance procedures as applicable. Information provided by self-report will be subject to verification from the sources listed in Section 4, as appropriate.

9.3. Hiring Official/Supervisor Obligation. A hiring official and/or supervisor receiving a self-report as required under this section must provide the information to university Vice President for Business Affairs (in the case of staff) or Provost (in the case of faculty) or his/her designee who will analyze the information for a determination regarding the individual’s suitability for the position.

10. RETENTION OF CRIMINAL BACKGROUND CHECK RECORDS

10.1. Confidential Records. All criminal background check information obtained from a criminal background check database will be regarded as confidential as required by law and will not be made a part of the applicant's file or the employee's personnel file. The information must be kept in a separate secure file and will not be communicated to any unauthorized person.

10.2. Criminal History Record Information. Under Texas Government Code § 411.085, the unauthorized release of criminal history record information, information obtained from the Texas DPS secure site consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, is a criminal offense and, consequently, the institution should seek legal advice with respect to any requested release of such information.

10.3. Destruction of Criminal History Record Information and Specific Criminal Background Check Information. The chief of police of the institution shall destroy all criminal history record information and specific criminal background check information that the institution obtained about the individual six months after it is obtained.

10.4. Self Reports. Self-reports of charges or convictions as required by this policy will be maintained with the employee’s personnel file in accordance with the university’s record retention policy.

11. X. AUTHORITY

11.3. Texas Government Code § 411.135 Access to Certain Information by Public
11.4. University of Texas System Policy xxxxx
Associate Deans for Undergraduate Education and Council for Undergraduate Education - UTDPP1008

Policy Statement

The Associate Deans for Undergraduate Education (ADUE or Associate Deans) are appointed by the Executive Vice President and Provost (Provost) on recommendation of the Deans of the respective Schools. The Associate Deans as a group comprise the Council for Undergraduate Education (CUE or Council), with the Council being chaired by the Dean of Undergraduate Education. The Associate Deans individually, and collectively as the Council, advise the Deans of the Schools and the Provost on all matters pertaining to undergraduate education and are responsible for coordinating the various undergraduate curricula and degree programs in consultation with the Deans of their respective Schools, the Provost, the Committee on Educational Policy, and the Academic Senate.

The Council has a primary advisory responsibility for setting undergraduate admission standards, both for freshmen and transfer students, for monitoring and advising their respective Deans on the effectiveness of the academic advising efforts of the Schools, for administering the various “fast-track” baccalaureate-master’s programs in their Schools, and for administering many individual student matters such as academic drops, withdrawals, probations, suspensions, and readmissions. In concert with the Office of Records and Registration, the Associate Deans are responsible for maintaining their School’s various degree profiles and electronic degree audits.

In the vital dimension of undergraduate instruction, the Undergraduate Dean and the Council have responsibility for advising the Provost and the respective School Deans on the quality of undergraduate instruction and the scheduling of classes, for ensuring that individual school offerings, programs, and practices in the domain of undergraduate education are consistent with general university standards, and for certifying students for graduation and academic honors. They are responsible, in concert with the Dean for Undergraduate Education, for assembling and approving the content of the Undergraduate Catalog from their Schools and forwarding the catalog to the Provost and the Committee on Educational Policy for further approvals.

The Associate Deans have primary responsibilities in their Schools for working with other university offices charged with associated aspects of undergraduate education, such as generating student applications, converting applications into enrollments, retaining students, and, finally, graduating these students in a timely fashion.

Policy History

- Issued: May 12, 1980
- Editorial Amendments: February 2, 1998
- Editorial Amendments: September 1, 2000
• Editorial Amendments: January 11, 2007
• Revised: March 21, 2008

Policy Links

Permalink for this policy: http://go.utdallas.edu/utdpp1008

Link to PDF version: http://provost.utdallas.edu/policy/pdf/utdpp1008

Link to printable version: http://provost.utdallas.edu/policy/print/utdpp1008
Council on Undergraduate Education - UTDPP1008

Policy Statement

The Council on Undergraduate Education advises the Dean of Undergraduate Education on all aspects of undergraduate education at The University of Texas at Dallas. The Council will make recommendations to the Dean in the following areas:

1. Coordination of all academic procedures with regard to the conferring of undergraduate degrees.

2. Establishment of policies and procedures, consistent with the general academic policies of the university recommended by the Academic Senate and adopted by the university, regarding:
   
   a. Advice on admission criteria for undergraduates,
   
   b. Approval and scheduling of courses used by students in meeting core curriculum requirements, general standards for undergraduate academic programs including degrees, minors, and certificates,
   
   c. Continual development of the collective advising program,
   
   d. Academic programs of students, including those not in good standing,
   
   e. Academic persistence and graduation rates,
   
   f. Transfer of credit and evaluation of other credentials related to admission to U. T. Dallas undergraduate degree programs, and
   
   g. Cooperation with Student Affairs and Enrollment Management to recruit new students by participating in organized recruiting activities.

3. Revisions to undergraduate catalog copy to be forwarded for review by the Committee on Educational Policy.

4. Recommend minor suspensions of the regulations by the Dean as may be advisable for specific student circumstances.

5. Advise on all matters regarding evolving trends in undergraduate education at the national and regional level that the Dean will report to the Academic Senate.

6. Participate in the periodic review of existing and proposed undergraduate programs.

7. Review of policies and procedures pertaining to undergraduate student support and scholarships, and proposals for the establishment of support that recognizes undergraduate student achievement.
8. Development of programs and activities to encourage, foster, and support scholarly and creative research and achievement in undergraduate education.

9. Development of recommendations for the Dean to present to the Executive Vice President and Provost and to the Vice President for Research concerning undergraduate offerings associated with academic centers, institutes, and other comparable entities.

**Organization**

The Dean of Undergraduate Education is the academic officer responsible for coordinating support for the undergraduate programs of the university and for implementing the policies of the university in regard to undergraduate education. The Council on Undergraduate Education functions as an executive committee to advise and assist the Dean.

**Membership**

The Dean of Undergraduate Education shall convene and chair the Council. The members of the Council will be the Associate Deans for Undergraduate Education for each of the schools in the university or a representative appointed by the school dean. The Chair, or the Chair at the request of any Council member, may invite non-voting participation from other faculty with expertise on any matter before the Council.

**Policy History**

- Issued: May 12, 1980
- Editorial Amendments: February 2, 1998
- Editorial Amendments: September 1, 2000
- Editorial Amendments: January 11, 2007
- Revised: March 21, 2008
FAC RESOLUTION OF 2011, WITH THE SAME WORDING AS UT AUSTIN FACULTY COUNCIL RESOLUTION, PASSED UNANIMOUSLY ON 2/16/2009:

The Faculty Council at the University of Texas at Austin believes carrying firearms on the University campus by anyone other than law enforcement officers is detrimental to the safety of the students, faculty, and staff.

HAND GUN RESOLUTION PASSED THE TEXAS COUNCIL OF FACULTY SENATES ON MARCH 7, 2009 and reaffirmed at the meeting of 24 February, 2011 (votes all in favor except two abstaining; none opposed):

WHEREAS, allowing concealed firearms on university campus threatens our ability to create and maintain a safe, open learning environment for students, faculty and staff,

Be it resolved that the members of Texas Council of Faculty Senates oppose any legislation or initiatives that will overturn the present prohibitions on carrying concealed weapons on university campuses.
Criminal Background Check Policy
(considering all positions security sensitive)

1. PURPOSE:

1.1. The University of Texas at Dallas is committed to promoting campus safety and the security of personal and University property, consistent with the requirements of law and prudent financial and programmatic practices. As part of this commitment, the university seeks information on the possible criminal history of all individuals under consideration for appointment to full time positions and all positions deemed “security sensitive” under Texas law. The Texas Education Code, §51.215(c) says: Security-sensitive positions shall be restricted to employees who handle currency, have access to a computer terminal, have access to a master key or who work in an area designated a security sensitive area. “Computer terminal” is construed to mean a computer. “Access” means possessing a university computer user identification (netid). It follows that virtually all positions are security sensitive. This policy defines the acquisition and use of such information by the University, implementing University of Texas System Administration Policy UTS124.

2. CLASSIFICATION OF SECURITY SENSITIVE POSITIONS.

2.1. All security sensitive positions will be classified to indicate the level of security check required, either Level 1 or Level 2. The general definitions of the levels are:

2.1.1. Level 1: all positions involving handling of cash, with access to a computer terminal that does not involve access to materials and equipment that pose a safety hazard, with access to a master key, or are in an area designated security sensitive area, that are not designated Level 2.

2.1.2. Level 2: all positions that present an increased risk at the University, including the risk for loss of property or risk to the overall safety of the campus or campus population considering factors such as those in 6.7.1.

3. WHEN CRIMINAL BACKGROUND CHECKS ARE REQUIRED:

3.1. For any applicant who is under final consideration for a full-time or part-time staff or faculty position, following normal screening and selection processes.

3.2. For a current employee, staff or faculty, who is under consideration for a transfer, promotion or reclassification from a non-security position to a security sensitive position;

3.3. For current employees, for whom the University has not previously obtained a criminal background check.

3.4. For current employees, students, and volunteers at the discretion of the President, or the President’s designee, if the requesting official determines that obtaining such information serves an official or business purpose. An example of business purpose
includes but is not limited to, when the university engages in activities involving minors such as summer camps, research activities or educational outreach.

3.5. A criminal background check is not required when a position reclassification results in a title change with no change in current responsibilities, or for a promotion or other advancement that is part of an employee’s normal career progression such as current faculty promoted to tenure, or from Associate Professor to Full Professor.

4. CRIMINAL BACKGROUND CHECK SOURCES

4.1. Applicants for non-security sensitive positions: the following sources may be used to obtain a criminal background check:

4.1.1. The Texas Department of Public Safety (DPS) Crime Records Service – Public Site or other publicly available local, state or federal criminal record sources.

4.1.2. Private vendors that offer criminal background check services that obtain information that is public record.

4.2. Applicants for a security sensitive positions not specifically designated Level 2 (as subject to a national criminal history record check): the following sources may be utilized to obtain a criminal background check:

4.2.1. The DPS Crime Records Service – Secure Site. This site may be used to obtain a name-based check or a national criminal history record information check, by using the consolidated response program or the electronic clearinghouse as authorized and made available by DPS. Currently a name-based search is used unless the applicant chooses to have a state-wide fingerprint based search.

Private vendors that offer national criminal background check services utilizing public information:

4.2.2. Other state, national, and international sites utilizing public information.

4.3. Applicants for level 2 Security sensitive positions (positions designated as subject to a national criminal history record check):

4.3.1. The DPS Crime Records Service – Secure Site. This site may be accessed to obtain a national criminal background check by using the consolidated response program or the electronic clearinghouse as authorized and made available by DPS. For national criminal history searches the DPS uses the FBI data service, which requires a finger-print based search.

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1 This source may be accessed to perform a criminal background check on an applicant for a security sensitive position. This database shall not be accessed to perform a criminal background check on an applicant for a non-security sensitive position or on a current employee who is not an applicant for a security sensitive position unless permitted by state law.

2 See footnote 2 above.
4.4. **Current employees or individuals who are not applicants:** only the following sources may be used to obtain a criminal background check, except when authorized by law to use a secure site.

4.4.1.1. The Texas Department of Safety (DPS) Crime Records Service – Public Site or other publicly available local, state or federal criminal record sources.

4.4.1.2. Private licensed vendors that offer criminal background check services based on information in the public record.

4.5. When a criminal background check is required by a specific state or federal law using a specific source of criminal background check information and/or certain procedures, the University will comply with such laws.

4.6. If the applicant has not resided in Texas for seven years prior to the date of the application, the university will seek criminal history information from those states where the applicant has resided in that time.

5. **USE OF INFORMATION:**
   Criminal record information will be used for the purpose of determining whether the individual is suited for the position at UT Dallas and does not pose a safety or security risk. A determination will be made on a case-by-case basis on factors such as the specific duties of the position; numbers of offenses; nature of each offense; length of time intervening between the offense and the employment decision; employment history; efforts at rehabilitation; and accuracy of the information that the individual provided on the employment application.
   The information will not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age or sexual orientation.

5.1. The results of a criminal background check may be grounds for termination according to university procedures.

5.2. The University will not make an adverse employment decision on the basis of criminal record information obtained under this policy without providing the person an opportunity to respond in accordance with Section 8 below.

6. **DEFINITIONS:**
   6.1. *Applicant:* An individual who applies for a position within The University of Texas at Dallas, whether the individual is an outside candidate or current employee. This does not include an individual who receives a position reclassification that does not result in a title change with no change in responsibilities or an individual who receives a promotion or other similar advancement in their normal career path, such as current faculty promoted to tenure, or from Associate Professor to Full Professor.

   6.2. *Controlled Substance:* This term has the meaning assigned in Texas Health & Safety Code §481.002, as that section may be amended from time to time.

   6.3. *Criminal Conviction Record Information:* Public information maintained by the Department of Public Safety, as provided in Texas Government Code §411.135.

   6.4. *National Criminal History Record Check (NCHRC):* A criminal history record check obtained from both the Texas Department of Public Safety and the Federal Bureau of
Investigation based on fingerprint identification information, or a criminal record check obtained from a private vendor based on national criminal records.

6.5. **Hiring Official:** Administrative official seeking to fill a vacant position, such as the Dean in the Division of Academic Affairs, the Director or the Department Head, in other divisions, or the faculty member in charge of a laboratory or other facility.

6.6. **Select Agent:** This term has the meaning assigned in 18 U.S.C. §175b, as that section may be amended from time to time.

6.7. **Security Sensitive Position or area:** Security sensitive positions or areas are those U T DALLAS positions or areas described in Texas Education Code § 51.215 (c) and Texas Government Code § 411.094 (a) (2), as those sections may be amended from time to time; positions that have responsibility for providing patient care or for providing childcare in a childcare facility, as that term is defined in Texas Human Resources Code §42.002 (3), as it may be amended from time to time; and positions that have direct access to, or responsibility for, pharmaceuticals, select agents, or controlled substances; or physical areas such as laboratories or facilities on the university campus that have been designated as security sensitive by the administrative officer or faculty member responsible for them.

6.7.1. In determining which specific positions to designate as Level 2 security sensitive, the Executive Vice President and Provost and the Senior Vice President for Business Affairs will consider whether departments or other units perform functions that may pose increased risks at the University, considering factors including but not limited to the following:

- 6.7.1.1. senior level administrative responsibilities;
- 6.7.1.2. responsibility for the preparation, maintenance or approval of the financial, payroll, personnel or purchasing systems;
- 6.7.1.3. access to, or responsibility for, cash, checks or University property, disbursement or receipts;
- 6.7.1.4. significant inventory control responsibilities, including receipt and release of inventory;
- 6.7.1.5. responsibility for execution or approval of financial transactions;
- 6.7.1.6. direct responsibility for the care, safety of security of humans or the safety or security of personal University property;
- 6.7.1.7. responsibility for operating or maintaining, in the course of normal job duties, University-owned or leased vehicles, machinery or toxic systems that could cause death, injury, or illness;
- 6.7.1.8. responsibility for pharmaceuticals, select agents, or controlled substances;
- 6.7.1.9. access to, or responsibility, for classified information pertaining to the national defense;
6.7.1.10. Access to data protected by Federal or State law or non-disclosure agreements, medical records, personnel records, other personnel data or confidential criminal justice information, or to critical data processing systems.

7. PROCEDURES:

7.1. The President has designated the Executive Vice President and Provost as the official responsible for designating which faculty positions or academic areas are security sensitive at levels 1, 2, or 3, and the Senior Vice President for Business Affairs as the official responsible for designating which non-faculty positions or non-academic areas are security sensitive at levels 1, 2, or 3. Directors of administrative offices who wish to designate certain positions/areas as security sensitive at levels 2 or 3 should notify the Vice President for Business Affairs; faculty or academic administrators responsible for positions/areas that they wish to designate as security sensitive at levels 2 or 3 should notify the Provost. The Vice President for Business Affairs and Provost will keep the Office of Human Resources apprised as to positions/areas that have been designated as security-sensitive and OHR will identify security-sensitive positions as such in job descriptions and vacancy advertisements.

7.2. Only the Chief of Police is authorized to initiate requests on behalf of the university for criminal history record information or criminal conviction record information from the Texas Department of Public Safety, other law enforcement agencies, or private agencies designated by the University for this purpose.

7.3. Applicants for security sensitive positions will sign the appropriate university authorization form, Department of Public Safety Audit form, or both. (The appropriate form will be determined on whether the source of criminal records is the DPS secure site or a private vendor that offers national criminal background check services). All forms will clearly specify which agency will be used and what kind of information will be sought. Level 2 security sensitive positions requiring a national search will require a form that includes fingerprints for identification for the FBI national criminal records search. Searches using a private vendor require an Authorization and Disclosure form that complies with the Fair Credit Reporting Act. These forms will be clearly labeled and the rights of the applicant will be clearly indicated as required by law.

7.4. Failure of an applicant to consent to a criminal background check or to timely provide identifying information required for a criminal background check, which may include full name, other names used, date of birth, sex, race, driver’s license number or personal identification certificate number, social security number, street address, recent photograph and fingerprints, is grounds for rejection of the application. Falsification of an application or omission of criminal record information required to be reported is grounds to reject an applicant or discipline/terminate an employee.

7.5. Hiring officials are responsible for requesting that an applicant who is the finalist for a security sensitive position complete the appropriate U T DALLAS Criminal Background Check Form. The hiring official will forward the completed form and a copy of the criminal convictions section of the finalist’s employment application to the University Police Department. No offer of employment will be made until a criminal
background check is satisfactorily completed. If circumstances require that an offer of employment be made before the completion of the criminal background check, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation.

7.6. Upon receipt of a request for criminal record information, with the accompanying release form, if required, the Chief of Police will promptly obtain and review the individual’s criminal record information for at least the last seven years. The Chief will provide the hiring official with the results of the investigation and cause the UT DALLAS Police Department section of Criminal Background Check Form to be completed. No other notes are to be made on that form.

7.6.1. Applicants for security sensitive positions will sign the appropriate university release form. The appropriate form will be determined on whether the source of criminal records is the DPS secure site or a private vendor that offers national criminal background check services. All forms will clearly specify which agency will be used and what kind of information will be sought. Release forms are as follows:

7.6.2. No form is required for a public records search on the public DPS site, but the applicant should be notified that such a search will be made.

7.6.3. University of Texas policy requires a release form for the use of the DPS Secure Site. In addition, the Department of Public Safety requires the applicant to fill in an audit verification form acknowledging that they are applying for a position that requires a search in that site. The search can be a name-based search or a fingerprint search. Under state law regulating the DPS site, the results of a name based search cannot be disclosed to the person named. The results of a fingerprint based search can be disclosed. If a search returns adverse information on an applicant in a name based search, the applicant can be told that the results were adverse and that they can request a fingerprint based search. Applicants for a position for which a name-based search is considered sufficient by the hiring official may choose to have the fingerprint search instead.

7.6.4. A national search, requiring that FBI criminal records be accessed, requires fingerprint identification.

7.6.5. A search using a private vendor and accessing information in government agencies protected as confidential, requires authorization under the Right to Privacy Act (1974) and the Fair Credit Reporting Act. What can be in the reports is governed by the Fair Credit Reporting Act. The form authorizing searches under these acts should be clearly labeled and the authority that the signatory is granting to the vendor should be clearly indicated as required by law. Information obtained under this provision must be disclosed to the applicant or employee concerned.

7.7. If the criminal records check reveals a criminal record, the hiring official:

7.7.1. For a staff position: should consult with the Chief of Police, and the Director of Human Resources about whether the individual is acceptable for the position in accordance with III.A. If the Chief of Police or the Director of Human
Resources is of the opinion that the individual may be unacceptable for the position or for continued employment, then the hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the applicable Vice President or Provost.

7.7.2. For a faculty position: should consult with the Chief of Police and Provost about whether the individual is acceptable for the position in accordance with III.A. The hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the Provost or his/her designee.

7.8. The criminal background check for security-sensitive positions will include sources that will provide information where the individual has been employed and resided for at least the seven years prior to application.

7.9. Questions regarding compliance and other issues related to security sensitive positions should be addressed to the Executive Vice President and Provost or to the Senior Vice President for Business Affairs, as appropriate.

8. NOTIFICATIONS AND OPPORTUNITY TO RESPOND:

8.1. Pre-adverse Action Disclosure. If the University receives a report indicating that an applicant or a current employee has a criminal record the hiring official will notify the individual that such a report has been received and provide the individual with a copy of his or her report, when and as this is permitted by law and DPS policy or procedure. If the report is a factor in considering adverse employment action - denying a job application, denying a promotion, reassigning or terminating the employee - before any adverse action is taken, the individual will be notified of their right to challenge the accuracy and completeness of the report with the agency that provided the report.

8.2. When the university has used a third-party vendor credit reporting agency to conduct the criminal record checks, the resulting report is considered a “consumer report” under the Fair Credit Reporting Act (FCRA). If a consumer report is relied on to deny employment, deny a promotion, reassign or terminate an employee, the institution will provide the current employee with a specific pre-adverse action disclosure that includes a copy of the employee's consumer report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” – a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual’s report is required to give the institution the summary of consumer rights.

8.3. Opportunity to Respond for Staff Positions Within five business days following the receipt of the report as provided in 8.1, the employee may submit additional information to the hiring official/supervisor relating to the criminal record and why it should not affect an employment decision. Before the hiring official/supervisor makes a final employment decision he/she will review all information provided to him/her with an official(s) designated by the institution and obtain a recommendation from the designated official(s) about whether to proceed with an offer or adverse employment action. The decision of the hiring official is final and may not be appealed. However, if

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3 The institution using a credit reporting agency for this purpose must have a procedure in place in accordance with the U. T. System Office of General Counsel issued model policy for addressing notice of address discrepancies received from a credit reporting agency regarding the subject of a report.
the individual is a current employee standard employee grievance procedures may be used. [p16]

8.4. Opportunity to Respond for Faculty Positions.

8.4.1. Outside Applicant. Within five business days following the receipt of the report as provided in 8.1., the individual may submit additional information to the hiring official relating to the criminal record and why it should not affect an employment decision. Before the hiring official makes a final employment decision, he/she will review all information provided to him/her with an official designated by the institution and obtain a recommendation from the designated official about whether to proceed with an offer. The decision of the hiring official is final and may not be appealed.

8.4.2. Current Faculty Member. Within five business days following their receipt of the report, the current faculty member may submit additional information to the Dean of their school relating to the criminal record and why it should not affect their employment. If the current faculty member so requests in writing, before the employment decision is made, the Dean or designated official will review the information with an officially designated faculty committee and obtain a written recommendation from the committee about whether to proceed with an offer or adverse employment decision. The faculty committee will be constituted completely by tenured faculty appointed by the President from the list of faculty recommended by the Senate to serve on faculty hearing tribunals in accordance with U T DALLAS PP1055. After the panel makes its recommendation, the affected faculty member may present a grievance, in person or through a representative, as described in the university grievance procedure U T DALLAS PP1050. The chief academic officer shall meet with the faculty member and then issue a written determination on the grievance. The decision of the chief academic officer is final and shall not be subject to further review. A current faculty member may invoke the procedures available under Regents’ Rules and Regulations, Rule 31008 related to termination and non-renewal where applicable.

8.5. Post-Decision Disclosure When Private Vendor Services Used To Conduct Criminal Background Check. If a consumer report has been relied on to deny employment, deny a promotion, reassign or terminate an employee after the institution has taken an adverse action, the individual must be given notice — orally, in writing, or electronically — that the action has been taken. It must include:

8.5.1. the name, address, and phone number of the credit reporting agency that supplied the report;

8.5.2. a statement that the credit reporting agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and

8.5.3. a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.
9. WHEN SELF-REPORT OF CHARGES OR CONVICTIONS IS REQUIRED

9.1. **Applicants.** Applicants must report to the hiring official any criminal charges or convictions, excluding misdemeanor offenses punishable only by fine, occurring after the date of application. Failure to do so may lead to disqualification from eligibility.

9.2. **Current Employees.** Continuing UT Dallas employees must report to their supervisor in writing, within five business days, any criminal convictions, excluding misdemeanor offenses punishable only by fine. Failure to do so is a violation of UT System policy and may lead to disqualification from eligibility for their position or disciplinary action as appropriate. Such disqualification or disciplinary action will be subject to standard appeal or grievance procedures as applicable. Information provided by self-report will be subject to verification from the sources listed in Section 4, as appropriate.

9.3. **Hiring Official/Supervisor Obligation.** A hiring official and/or supervisor receiving a self-report as required under this section must provide the information to university Vice President for Business Affairs (in the case of staff) or Provost (in the case of faculty) or his/her designee who will analyze the information for a determination regarding the individual’s suitability for the position.

10. RETENTION OF CRIMINAL BACKGROUND CHECK RECORDS

10.1. **Confidential Records.** All criminal background check information obtained from a criminal background check database will be regarded as confidential as required by law and will not be made a part of the applicant's file or the employee's personnel file. The information must be kept in a separate secure file and will not be communicated to any unauthorized person.

10.2. **Criminal History Record Information.** Under Texas Government Code § 411.085, the unauthorized release of criminal history record information, information obtained from the Texas DPS secure site consisting of identifiable descriptions and notifications of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, is a criminal offense and, consequently, the institution should seek legal advice with respect to any requested release of such information.

10.3. **Destruction of Criminal History Record Information and Specific Criminal Background Check Information.** The chief of police of the institution shall destroy all criminal history record information and specific criminal background check information that the institution obtained about the individual six months after it is obtained.

10.4. **Self Reports.** Self-reports of charges or convictions as required by this policy will be maintained with the employee’s personnel file in accordance with the university’s record retention policy. [p17]

11. AUTHORITY


11.3. Texas Government Code § 411.135 Access to Certain Information by Public

11.4. University of Texas System Policy xxxxx
Criminal Background Check Policy  
(considering all positions security sensitive)

1. PURPOSE:

1.1. The University of Texas at Dallas is committed to promoting campus safety and the security of personal and University property, consistent with the requirements of law and prudent financial and programmatic practices. As part of this commitment, the university seeks information on the possible criminal history of all individuals under consideration for appointment to full time positions and all positions deemed “security sensitive” under Texas law. The Texas Education Code, § 51.215 b(c) says: Security-sensitive positions shall be restricted to employees who handle currency, have access to a computer terminal, have access to a master key or work in an area designated a security sensitive area. The University of Texas System understands “Computer terminal” is construed to mean a computer. “Access” is understood to mean possessing a university computer user identification (netid). It follows that virtually all positions are security sensitive. This policy defines the acquisition and use of such information by the University, implementing University of Texas System Administration Policy UTS124.

2. CLASSIFICATION OF SECURITY SENSITIVE POSITIONS.

2.1. All security sensitive positions will be classified to indicate the level of security check required, either Level 1 is the lowest or Level 3 is the highest. The general definitions of the levels are:

2.1.1. Level 1: are faculty and staff all positions not involving handling of cash, with access to a computer terminal that does not involve access to materials and equipment that pose a safety hazard, with access to a master key, or are in an area designated security sensitive area, that are control of a master key, or access to materials and equipment that pose a serious safety hazard not designated Level 2.

2.1.2. Level 2 are faculty and staff positions which do not involve handling of cash or ability to access and change financial or administrative records, but which do involve control of a master key or access to hazardous materials or equipment, especially valuable university equipment, or controlled substances. Course materials and grades posted through the university academic software are not intended to be within the meaning of “administrative records” for this purpose. “Master key” is a key to offices and areas other than one’s own work areas or areas common to one’s own unit, such as copy rooms.

2.1.3. Level 3: all are administrative and staff positions that presenting an increased risk at the University, including the risk for loss of property or risk the opportunity for embezzlement or controlling facilities that could pose a threat to the
overall safety of the campus or campus population considering factors such as those in 6.7.1.

3. WHEN CRIMINAL BACKGROUND CHECKS ARE REQUIRED:
   3.1. For any applicant who is not a current employee and who is under final consideration for a full-time or part-time staff or faculty position, following normal screening and selection processes.
   3.2. For a current employee, staff or faculty, who is under consideration for a transfer, promotion or reclassification from a non-security position or a level 2 or 3 security sensitive position to a level 2 or 3 security sensitive position.
   3.3. For current employees, for whom the University has not previously obtained a criminal background check.
   3.4. For current employees, students, and volunteers at the discretion of the President, or the President’s designee, if the requesting official determines that obtaining such information serves an official or business purpose. An example of business purpose includes but is not limited to, when the university engages in activities involving minors such as summer camps, research activities or educational outreach.
   3.5. A criminal background check is not required when a position reclassification results in a title change with no change in current responsibilities, or for a promotion or other advancement that is part of an employee’s normal career progression such as current faculty promoted to tenure, or from Associate Professor to Full Professor.

4. CRIMINAL BACKGROUND CHECK SOURCES
   4.1. Applicants for non-security sensitive positions:
       University of Texas System institutions may utilize the following sources may be used to obtain a criminal background check:
       4.1.1. The Texas Department of Public Safety (DPS) Crime Records Service – Public Site or other publicly available local, state or federal criminal record sources.
       4.1.2. Private vendors that offer criminal background check services that obtain information that is public record.

   4.2. Applicants for all level 1 positions and level 2-a security sensitive positions not specifically designated Level 2 (as subject to a national criminal history record check):
       University of Texas System institutions may utilize the following sources may be utilized to obtain a criminal background check:
       4.2.1. The DPS Crime Records Service – Secure Site. This site may be used to obtain a name-based check or a national criminal history record information check.

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1 This source may be accessed to perform a criminal background check on an applicant for a security sensitive position. This database shall not be accessed to perform a criminal background check on an
by using the consolidated response program or the electronic clearinghouse as authorized and made available by DPS. Level 2 positions not designated as subject to a national search will be subject to a state-wide. Currently a name-based search is used unless the applicant chooses to have a state-wide fingerprint based search.

Private vendors that offer criminal background check services using public information in the public record.

4.2.2. Other state, national, and international sites utilizing public information

4.3. Applicants for level 3 Security sensitive positions. (Level 3 positions are designated as subject to a national criminal history record check):

4.3.1. The DPS Crime Records Service – Secure Site. This site may be accessed to obtain a national criminal background check by using the consolidated response program or the electronic clearinghouse as authorized and made available by DPS. For national criminal history searches the DPS uses the FBI data service, which requires a finger-print based search.

4.4. Current employees or individuals who are not applicants: University of Texas System institutions may only utilize the following sources to obtain a criminal background check, except when authorized by law to use a secure site.

4.4.1. The Texas Department of Safety (DPS) Crime Records Service – Public Site or other publicly available local, state or federal criminal record sources.

4.4.2. Private licensed vendors that offer criminal background check services based on information in the public record.

4.5. When a criminal background check is required by a specific state or federal law using a specific source of criminal background check information and/or certain procedures, the University will comply with such laws.

4.6. If the applicant has not resided in Texas for seven years prior to the date of the application, the university will seek criminal history information from those states where the applicant has resided in that time.

5. USE OF INFORMATION:

applicant for a non-security sensitive position or on a current employee who is not an applicant for a security sensitive position unless permitted by state law.

2 See footnote 2 above.
Criminal record information will be used for the purpose of determining whether the individual is suited for the position at UT Dallas and does not pose a safety or security risk. A determination will be made on a case-by-case basis on factors such as the specific duties of the position; numbers of offenses; nature of each offense; length of time intervening between the offense and the employment decision; employment history; efforts at rehabilitation; and accuracy of the information that the individual provided on the employment application. The information will not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age or sexual orientation.

5.1. The results of a criminal background check may be grounds for termination according to university procedures.

5.2. The University will not make an adverse employment decision on the basis of criminal record information obtained under this policy without providing the person an opportunity to respond in accordance with Section 8 below.

6. DEFINITIONS:

6.1. Applicant: An individual who applies for a position within The University of Texas at Dallas, whether the individual is an outside candidate or current employee. This does not include an individual who receives a position reclassification that does not result in a title change with no change in responsibilities or an individual who receives a promotion or other similar advancement in their normal career path, such as current faculty promoted to tenure, or from Associate Professor to Full Professor.

6.2. Controlled Substance: This term has the meaning assigned in Texas Health & Safety Code §481.002, as that section may be amended from time to time.

6.3. Criminal Conviction Record Information: Public information maintained by the Department of Public Safety, as provided in Texas Government Code §411.135.

6.4. National Criminal History Record Check (NCHRC): A criminal history record check obtained from both the Texas Department of Public Safety and the Federal Bureau of Investigation based on fingerprint identification information, or a criminal record check obtained from a private vendor based on national criminal records.

6.5. Hiring Official: Administrative official seeking to fill a vacant position, such as the Dean in the Division of Academic Affairs, the Director or the Department Head, in other divisions, or the faculty member in charge of a laboratory or other facility.

6.6. Select Agent: This term has the meaning assigned in 18 U.S.C. §175b, as that section may be amended from time to time.

6.7. Security Sensitive Position or area: Security sensitive positions or areas are those U T DALLAS positions or areas described in Texas Education Code § 51.215 (c) and Texas Government Code § 411.094 (a) (2), as those sections may be amended from time to time; positions that have responsibility for providing patient care or for providing childcare in a childcare facility, as that term is defined in Texas Human Resources Code §42.002 (3), as it may be amended from time to time; and positions that have direct access to, or responsibility for, pharmaceuticals, select agents, or controlled substances; or physical areas such as laboratories or facilities on the university campus that have been designated as security sensitive by the administrative officer or faculty member responsible for them.
6.7.1. In determining which specific positions to designate as Level 2 security sensitive, the Executive Vice President and Provost and the Senior Vice President for Business Affairs will consider whether departments or other units perform functions that may pose increased risks at the University, considering factors including but not limited to the following:

6.7.1.1. senior level administrative responsibilities;

6.7.1.2. responsibility for the preparation, maintenance or approval of the financial, payroll, personnel or purchasing systems;

6.7.1.3. access to, or responsibility for, cash, checks or University property, disbursement or receipts;

6.7.1.4. significant inventory control responsibilities, including receipt and release of inventory;

6.7.1.5. responsibility for execution or approval of financial transactions;

6.7.1.6. direct responsibility for the care, safety of security of humans or the safety or security of personal University property;

6.7.1.7. responsibility for operating or maintaining, in the course of normal job duties, University-owned or leased vehicles, machinery or toxic systems that could cause death, injury, or illness;

6.7.1.8. responsibility for pharmaceuticals, select agents, or controlled substances;

6.7.1.9. access to, or responsibility, for classified information pertaining to the national defense;

6.7.1.10. access to data protected by Federal or State law or non-disclosure agreements, medical records, personnel records, other personnel data or confidential criminal justice information, or to critical data processing systems.

7. PROCEDURES:

7.1. The President has designated the Executive Vice President and Provost as the official responsible for designating which faculty positions or academic areas are security sensitive at levels 1, 2, or 3, and the Senior Vice President for Business Affairs as the official responsible for designating which non-faculty positions or non-academic areas are security sensitive at levels 1, 2, or 3. Directors of administrative offices who wish to designate certain positions/areas as security sensitive at levels 2 or 3 should notify the Vice President for Business Affairs; faculty or academic administrators responsible for positions/areas that they wish to designate as security sensitive at levels 2 or 3 should notify the Provost. The Vice President for Business Affairs and Provost will keep the Office of Human Resources apprised as to positions/areas that have been designated as security-sensitive and OHR will identify security-sensitive positions as such in job descriptions and vacancy advertisements.
7.2. Only the Chief of Police is authorized to initiate requests on behalf of the university for criminal history record information or criminal conviction record information from the Texas Department of Public Safety, other law enforcement agencies, or private agencies designated by the University for this purpose.

7.3. Applicants for security sensitive positions will sign the appropriate university authorization release form. Department of Public Safety Audit form, or both. The appropriate form will be determined on whether the source of criminal records is the DPS secure site or a private vendor that offers national criminal background check services. All forms will clearly specify which agency will be used and what kind of information will be sought. Release forms are not required for level 1 security sensitive positions or level 2 security sensitive positions. Level 3 security sensitive positions requiring a national search will require a form that includes fingerprints for identification for the FBI national criminal records search. Searches using Level 3 security sensitive positions may in rare cases justify the use of a private vendor require an Authorization and Disclosure form that complies with assembling information that comes under the Fair Credit Reporting Act, which requires authorization under the Right to Privacy Act (1974). These forms will be clearly labeled and the rights of the applicant being waived will be clearly indicated as required by law.

7.4. Failure of an applicant to consent to a criminal background check or to timely provide identifying information required for a criminal background check, which may include full name, other names used, date of birth, sex, race, driver’s license number or personal identification certificate number, social security number, street address, recent photograph and fingerprints, is grounds for rejection of the application. Falsification of an application or omission of criminal record information required to be reported is grounds to reject an applicant or discipline/terminate an employee.

7.5. Hiring officials are responsible for requesting that an applicant who is the finalist for a security sensitive position complete the appropriate U T DALLAS Criminal Background Check Form. The hiring official will forward the completed form and a copy of the criminal convictions section of the finalist’s employment application to the University Police Department. No offer of employment will be made until a criminal background check is satisfactorily completed. If circumstances require that an offer of employment be made before the completion of the criminal background check, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation.

7.6. Upon receipt of a request for criminal record information, with the accompanying release form, if required, the Chief of Police will promptly obtain and review the individual’s criminal record information for at least the last seven years. The Chief will provide the hiring official with the results of the investigation and cause the U T DALLAS Police Department section of Criminal Background Check Form to be completed. No other notes are to be made on that form.
7.6.1. Applicants for security sensitive positions will sign the appropriate university release form. The appropriate form will be determined on whether the source of criminal records is the DPS secure site or a private vendor that offers national criminal background check services. All forms will clearly specify which agency will be used and what kind of information will be sought. Release forms are as follows:

7.6.2. No form is required for a public records search on the public DPS site, but the applicant should be notified that such a search will be made.

7.6.3. University of Texas policy requires a release form for the use of the DPS Secure Site. In addition, The Department of Public Safety secure site requires the applicant to fill in an audit verification form acknowledging that they are applying for a position that requires a search in that site. The search can be a name-based search or a fingerprint search. Under state law regulating the DPS site, the results of a name-based search cannot be disclosed to the person named. The results of a fingerprint-based search can be disclosed. If a search returns adverse information on an applicant in a name-based search, the applicant can be told that the results were adverse and that they can request a fingerprint-based search. Applicants for a position for which a name-based search is considered sufficient by the hiring official may choose to have the fingerprint search instead.

7.6.4. A national search, requiring that FBI criminal records be accessed, requires fingerprint identification.

7.6.5. A search using a private vendor and accessing information in government agencies protected as confidential, requires authorization under the Right to Privacy Act (1974) and the Fair Credit Reporting Act. What can be in the reports is governed by the Fair Credit Reporting Act. The form authorizing searches under these acts should be clearly labeled and the authority that the signatory is granting to the vendor should be clearly indicated as required by law. Information obtained under this provision must be disclosed to the applicant or employee concerned.

7.7. If the criminal records check reveals a criminal record, the hiring official:

7.7.1. For a staff position: should consult with the Chief of Police, and the Director of Human Resources about whether the individual is acceptable for the position in accordance with III.A. If the Chief of Police or the Director of Human Resources is of the opinion that the individual may be unacceptable for the position or for continued employment, then the hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the applicable Vice President or Provost.

7.7.2. For a faculty position: should consult with the Chief of Police and Provost about whether the individual is acceptable for the position in accordance with III.A. The hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the Provost or his/her designee.

7.8. The criminal background check for level 2 security-sensitive positions requiring a
national search and level 3 positions will include sources that will provide information where the individual has been employed and resided for at least the seven [p15] years prior to application.

7.9. Questions regarding compliance and other issues related to security sensitive positions should be addressed to the Executive Vice President and Provost or to the Senior Vice President for Business Affairs, as appropriate.

8. **NOTIFICATIONS AND OPPORTUNITY TO RESPOND:**

8.1. **Pre-adverse Action Disclosure.** If the University receives a report indicating that an applicant or a current employee has a criminal record the hiring official will notify the individual that such a report has been received and provide the individual with a copy of his or her report, when and as this is permitted by law and DPS policy or procedure. If the report is a factor in considering adverse employment action - denying a job application, denying a promotion, reassigning or terminating the employee - before any adverse action is taken, the individual will be notified of their right to challenge the accuracy and completeness of the report with the agency that provided the report.

8.2. When the university has used a third-party vendor credit reporting agency to conduct the criminal record checks, the resulting report is considered a “consumer report” under the Fair Credit Reporting Act (FCRA). If a consumer report is relied on to deny employment, deny a promotion, reassign or terminate an employee, the institution will provide the current employee with a specific pre-adverse action disclosure that includes a copy of the employee's consumer report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” – a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual’s report is required to give the institution the summary of consumer rights.

8.3. **Opportunity to Respond for Staff Positions** Within five business days following the receipt of the report as provided in 8.1, the employee may submit additional information to the hiring official/supervisor relating to the criminal record and why it should not affect an employment decision. Before the hiring official/supervisor makes a final employment decision he/she will review all information provided to him/her with an official(s) designated by the institution and obtain a recommendation from the designated official(s) about whether to proceed with an offer or adverse employment action. The decision of the hiring official is final and may not be appealed. However, if the individual is a current employee standard employee grievance procedures may be used. [p16]

8.4. **Opportunity to Respond for Faculty Positions.**

8.4.1. Outside Applicant. Within five business days following the receipt of the report as provided in 8.1., the individual may submit additional information to the hiring official relating to the criminal record and why it should not affect an employment decision. Before the hiring official makes a final employment decision, he/she will review all information provided to him/her with an official designated by

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3 The institution using a credit reporting agency for this purpose must have a procedure in place in accordance with the U. T. System Office of General Counsel issued model policy for addressing notice of address discrepancies received from a credit reporting agency regarding the subject of a report.
the institution and obtain a recommendation from the designated official about
whether to proceed with an offer. The decision of the hiring official is final and may
not be appealed.

8.4.2. Current Faculty Member. Within five business days following their receipt of
the report, the current faculty member may submit additional information to the
Dean of their school relating to the criminal record and why it should not affect their
employment. If the current faculty member so requests in writing, before the
employment decision is made, the Dean or designated official will review the
information with an officially designated faculty committee and obtain a written
recommendation from the committee about whether to proceed with an offer or
adverse employment decision. The faculty committee will be constituted completely
by tenured faculty appointed by the President from the list of faculty recommended
by the Senate to serve on faculty hearing tribunals in accordance with U T DALLAS
PP1055. After the panel makes its recommendation, the affected faculty member
may present a grievance, in person or through a representative, as described in the
university grievance procedure U T DALLAS PP1050. The chief academic officer
shall meet with the faculty member and then issue a written determination on the
grievance. The decision of the chief academic officer is final and shall not be
subject to further review. A current faculty member may invoke the procedures
available under Regents’ Rules and Regulations, Rule 31008 related to termination
and non-renewal where applicable.

8.5. Post-Decision Disclosure When Private Vendor Services Used To Conduct Criminal
Background Check. If a consumer report has been relied on to deny employment, deny
a promotion, reassign or terminate an employee after the institution has taken an adverse
action, the individual must be given notice — orally, in writing, or electronically — that
the action has been taken. It must include:

8.5.1. the name, address, and phone number of the credit reporting agency that
supplied the report;

8.5.2. a statement that the credit reporting agency that supplied the report did not
make the decision to take the adverse action and cannot give specific reasons for it;

8.5.3. a notice of the individual's right to dispute the accuracy or completeness of
any information the agency furnished, and his or her right to an additional free
consumer report from the agency upon request within 60 days.

9. WHEN SELF-REPORT OF CHARGES OR CONVICTIONS IS REQUIRED

9.1. Applicants. Applicants must report to the hiring official any criminal charges or
convictions, excluding misdemeanor offenses punishable only by fine, occurring after
the date of application. Failure to do so may lead to disqualification from eligibility.

9.2. Current Employees. Continuing UT Dallas employees must report to their supervisor in
writing, within five business days, any criminal convictions, excluding misdemeanor
offenses punishable only by fine. Failure to do so is a violation of UT System policy and
may lead to disqualification from eligibility for their position or disciplinary action as
appropriate. Such disqualification or disciplinary action will be subject to standard
appeal or grievance procedures as applicable. Information provided by self-report will be subject to verification from the sources listed in Section 4, as appropriate.

9.3. Hiring Official/Supervisor Obligation. A hiring official and/or supervisor receiving a self-report as required under this section must provide the information to university Vice President for Business Affairs (in the case of staff) or Provost (in the case of faculty) or his/her designee who will analyze the information for a determination regarding the individual’s suitability for the position.

10. RETENTION OF CRIMINAL BACKGROUND CHECK RECORDS

10.1. Confidential Records. All criminal background check information obtained from a criminal background check database will be regarded as confidential as required by law and will not be made a part of the applicant's file or the employee's personnel file. The information must be kept in a separate secure file and will not be communicated to any unauthorized person.

10.2. Criminal History Record Information. Under Texas Government Code § 411.085, the unauthorized release of criminal history record information, information obtained from the Texas DPS secure site consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, is a criminal offense and, consequently, the institution should seek legal advice with respect to any requested release of such information.

10.3. Destruction of Criminal History Record Information and Specific Criminal Background Check Information. The chief of police of the institution shall destroy all criminal history record information and specific criminal background check information that the institution obtained about the individual six months after it is obtained.

10.4. Self Reports. Self-reports of charges or convictions as required by this policy will be maintained with the employee’s personnel file in accordance with the university’s record retention policy.

11. AUTHORITY

11.3. Texas Government Code § 411.135 Access to Certain Information by Public
11.4. University of Texas System Policy xxxxx