



**Angelo State University**  
**Operating Policy and Procedure**

**OP 52.55: Criminal History Record Information for Security Sensitive Positions**

**DATE:** May 28, 2019

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish policy and procedure for performing criminal history record information checks for applicants seeking employment in security sensitive positions, current employees who are selected for or transferred into a security sensitive position, or employees whose positions are reclassified to a security sensitive position. This is done in an effort to protect the safety and welfare of employees and the general public and preserve state property.

**REVIEW:** This OP will be reviewed in May every three years, or as needed, by the director of human resources with recommended revisions forwarded through the vice president for finance and administration to the president by June 15 of the same year.

**POLICY/PROCEDURE**

**1. Authority**

- a. Angelo State University defines security sensitive positions as those held by employees who:
  - (1) Handle currency;
  - (2) Have access to a computer terminal;
  - (3) Have access to the personal information or identifying information of another person;
  - (4) Have access to the financial information of the employer or another person;
  - (5) Have access to a master key; or
  - (6) Work in a location designated as a security sensitive area.
- b. Per Texas Government Code, Section 411.094, an institution of higher education is entitled to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is an applicant for or incumbent of a security sensitive position.
- c. The criminal history record information may be used only for the purpose of evaluating applicants for or incumbents of security sensitive positions.

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- d. The criminal history record information may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.
- e. All criminal history record information obtained about an individual shall be destroyed after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

## **2. General**

- a. Staff and faculty positions at Angelo State University may be classified as security sensitive positions.
- b. Certain temporary or student employee positions may also be considered security sensitive positions.
- c. All new staff and faculty employees will be required to have a criminal history, sex offender, and violent offender check prior to employment in positions deemed to be security sensitive. In cases where licensure is required, the names may be checked against appropriate disbarment lists. Student employees and interns selected for a position that is classified as security sensitive will also be subject to these checks prior to employment.
- d. Current employees who are to be transferred, demoted, promoted, or reclassified into a security sensitive position will be required to have a criminal history, sex offender, and violent offender check prior to the promotion, transfer, or reclassification becoming effective. This also includes any student position that is classified as security sensitive.
- e. This policy does not apply to university police department employees in criminal justice positions. Those security checks will be conducted in accordance with Chapter 441, Subchapter F, Texas Government Code, and Texas Education Code, Section 51.215.

## **3. Self-Disclosure of Criminal Convictions**

- a. Individuals applying for new or internal security sensitive positions at Angelo State University are required to self-disclose information related to any criminal convictions or deferred adjudications at the time of application.
- b. Employees conducting applicant interviews will ask about negative information revealed on employment applications and will inquire about the nature and circumstances of criminal convictions during the interview process. Interview questions regarding criminal convictions should focus on the relevancy to the job duties as well as the time frame, severity, and circumstances surrounding the conviction.

## **4. Procedure**

- a. Every offer of employment, including internal transfers into security sensitive positions, at the university shall be conditioned on receipt of an acceptable criminal history record information check. Failure of an applicant to consent to a criminal background check is grounds for his/her removal from the applicant pool or denial of the internal transfer.

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- b. Prior to the completion of the hiring process, the best qualified candidate must provide authorization for the university to conduct a criminal history record information check. These applicants/transferees will be given the appropriate disclosures in compliance with the rules and regulations of the Fair Credit Reporting Act.
- c. Information provided by the applicant/transferee will be forwarded to the selected background check vendor, which shall perform the criminal background check.
- d. Upon receipt of the information, background checks will be reviewed by the director of human resources or designee, and a notification indicating the applicant/transferee is either “eligible for hire” or “not eligible for hire” will be sent to the appropriate hiring department.
- e. Individuals with a criminal history will not be automatically disqualified for employment with Angelo State University except as provided by this regulation. It is the practice of the university not to employ or to continue the employment of individuals who may be deemed unsuited for service by reason of certain convictions, or conduct leading to arrest or conviction. While an arrest or conviction of a crime, in and of itself, may not be an automatic bar to employment, if conduct leading to arrest or conviction relates to suitability of the individual to perform duties in a particular position, such person may be denied employment.
- f. In situations where criminal history record information is found for an applicant for employment or an existing employee, the following analysis should be initiated prior to finding an applicant ineligible for employment or prior to disciplining or terminating an existing employee. The Office of Human Resources representative or appropriate vice president must justify the action as job-related and consistent with business necessity. To support the decision, the following factors must be considered:
  - (1) The nature and gravity of the offense(s);
  - (2) The time that has passed since the conviction and/or completion of the sentence;
  - (3) The nature of the job sought or held and the relevancy of the information to the job responsibilities;
  - (4) The number of offenses committed by the individual; and
  - (5) The legitimate interest of protecting the safety and welfare of employees and the general public, preserving the state property, and upholding the reputation and integrity of the university.
- g. Criminal history records shall not be used to discriminate on the basis of sex (including pregnancy), race, color, religion, sex, national origin, age, disability, status as a covered veteran, genetic information, sexual orientation, or other protected categories, classes, or characteristics.
- h. Any candidate who is “not eligible for hire” based on criminal history records will receive a written notification from the Office of Human Resources. The notification will provide the candidate with contact information for the background check vendor and instructions on how to obtain a copy of the report. The candidate will have 10 business

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days to respond with any supporting documentation to refute the information contained in the criminal background check; however, the university has no obligation to hold a position open to allow a candidate to correct his or her report.

- i. Criminal background records of current staff or faculty and applicant background verifications are confidential. Such records will be plainly marked “CONFIDENTIAL” and will be disclosed only to administrators and institution executives who have a need to know. The unauthorized disclosure of background information will be considered a breach of confidentiality, and the individual or individuals involved will be subject to discipline as deemed appropriate in accordance with Angelo State University’s policy on confidentiality and the appropriate policy on discipline and discharge.
- j. The criminal background verification information will be destroyed no later than six months after the effective date of employment of an applicant.