[Major revision: June 24, 2013]

Angelo State University
Operating Policy and Procedure

OP 52.56: **Employee and Applicant Reporting of Criminal History**

DATE: June 24, 2013

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish policy and procedure for the disclosure and subsequent review of applicant or employee criminal history records. 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 of odd-numbered years 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

Angelo State University is committed to protecting the safety and welfare of employees and the general public, preserving state property, and upholding the reputation and integrity of the university. To achieve these goals the university may obtain criminal history record information on any applicant for employment or existing employee that will be assuming a security sensitive position as defined in OP 52.55 Criminal History Record Information for Security Sensitive Positions. Criminal history record information may be used to make employment decisions affecting the applicant or employee as provided by this policy or as outlined in OP 52.55.

This policy applies to applicants for employment and existing employees of Angelo State, including staff and faculty positions and certain temporary or student employee positions that are considered to be security sensitive positions.

1. Analysis of Criminal History Record Information and Subsequent Action

It is the practice of Angelo State 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, that person may be denied employment.

a. 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.

(1) The Office of Human Resources representative or appropriate vice president that proposes to reject an applicant or discipline/terminate an existing employee based on criminal history record information consisting of conviction records must justify the action as job-related and consistent with business necessity. To support the decision, the following factors must be considered:

(a) The nature and gravity of the offense(s),

(b) The time that has passed since the conviction and/or completion of the sentence,

(c) The nature of the job sought or held and the relevancy of the information to the job responsibilities,

(d) The number of offenses committed by the individual, and

(e) 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.

(2) A conviction on a person's criminal history record constitutes reliable evidence that the person engaged in the activity alleged since convictions require proof beyond a reasonable doubt and/or a plea of guilty or no contest to the charges. Therefore, when considering a person's conviction records, the Office of Human Resources or appropriate vice president need not evaluate whether the applicant or employee actually engaged in the misconduct.

(3) If, after considering all the circumstances and these factors, the Office of Human Resources or appropriate vice president reasonably concludes the applicant's or employee's criminal conduct evidences he or she is unsuitable for the position in question, they may recommend that the department/unit reject the applicant or terminate the existing employee. If the department/unit disagrees with this conclusion and wishes to employ or continue the employment of the individual, the department/unit must receive approval from the Office of the President.

2. Employee Reporting of Arrests, Deferred Adjudications, Convictions, or Other Legal Issuances of Guilt

a. University employees must report to their supervisor, within 24 hours or at the earliest possible opportunity thereafter, any arrests, deferred adjudications, criminal convictions, or other legal issuances of guilt, excluding misdemeanor traffic offenses punishable only by fine. Failure to report criminal activities as required by this policy shall constitute grounds for disciplinary action, up to and including termination.

b. The employee's supervisor must report arrests, deferred adjudications, convictions, or other legal issuances of guilt to the head of the department/unit and the Office of Human Resources.

c. The Office of Human Resources or appropriate vice president will review the facts and circumstances surrounding the employee's arrests, deferred adjudication, conviction, or other legal issuances of guilt in order to conduct an analysis of the situation.

d. The Office of Human Resources will assist the employee's department or unit in determining the appropriate disciplinary action to take, up to and including termination of employment.

3. Falsification or Failure to Disclose Criminal History

a. Applicant

(1) If it is determined prior to employment that an applicant has falsified his or her criminal history on the application for employment, the applicant will not be eligible for employment with Angelo State.

(2) If it is determined prior to employment that an applicant failed to disclose his or her criminal history on the application for employment, the applicant may not be eligible for employment with Angelo State.

b. Employee

(1) If it is determined any time after employment that an employee falsified or failed to disclose his or her criminal history on the employment application, the employee may be subject to disciplinary action, up to and including dismissal.