

22.41 Applicants. A criminal background check will not be performed until OHR receives and forwards to the Office of Police a completed, signed Criminal Background Check Form. The hiring official is responsible for directing the individual to complete, sign, and return the form to the hiring official who will deliver the form to OHR along with the Request to Make an Offer form. An applicant who fails to complete, sign, and submit the form will be removed from further consideration for the position. In addition, if the applicant is a current employee, such refusal is grounds for disciplinary action.

22.42 OHR will send the completed Criminal Background Check Form and, if applicable, a copy of the finalist's employment application to the Office of Police.

22.43 The criminal background check should include states where the applicant has resided and/or been employed during the period of no less than seven years immediately preceding the date the individual signed the Criminal Background Check Form.

22.44 The Office of the Police will promptly obtain and review the criminal background information and will notify the hiring official and the appropriate OHR representative of the results of the investigation.

22.45 ODOP will conduct the criminal background check before the hiring official makes the employment decision. However, 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. The individual to whom the position is offered may not begin work until the requirements of the policy have been met without the prior approval of the President or his/her designee.

22.5. Conducting a Criminal Background Check on Non-Applicant Current Employees.

22.51 The University will utilize the TxDPS Crime Records Service – Public Site and/or other publically available local, state, or federal criminal record sources to perform these checks to obtain criminal conviction record information and other publically available information. The TxDPS secure site will not be used for these checks.

22.52 OHR will determine a procedure to identify the current U. T. System Administration employees for whom a criminal background check has not previously been obtained and provide such information to the Office of Police.

22.53 OHR may require an employee to complete, sign, and deliver a criminal background check form to OHR. An employee's refusal to comply is grounds for disciplinary action.

22.54 The Office of Police will promptly obtain and review the criminal background information and will notify the department head and the appropriate OHR representative of a criminal record, if any.

22.6 No Automatic Disqualification for Criminal Background. An individual with a criminal record will not automatically be disqualified from employment or promotion. In the event the investigation reveals criminal record information, the hiring official, in consultation with OHR and the Office of Police, will determine on a case-by-case basis whether the individual is qualified based on factors such as:

- a. specific duties of the position;
- b. number of offenses;
- c. nature of each offense;
- d. length of time intervening between the offense and the employment decision;
- e. employment history;
- f. efforts at rehabilitation; and
- g. accuracy of the information that the individual provided on the employment application.

22.7 Falsification or Omission of Criminal Record Information. 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.

22.8 Notice Requirement.

22.81 If OHR receives a report indicating that an applicant or a current employee has a criminal record that may be relied on regarding an employment decision, the individual will be notified, provided with a copy of the report, except as provided by law or DPS policy or procedure, informed of the right to challenge the accuracy and completeness of the report with the agency that provided the report, and informed that he/she has the opportunity to submit additional information relating to the criminal record and why it should not affect an employment decision.

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

(<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>)

22.9 Opportunity to Respond

22.91 Staff Positions. If the Office of Police or OHR advises the hiring official that the individual may be unacceptable for the position being filled or for continued employment, the individual will be notified and within five business days following the receipt of the report or receipt of information that the individual has a criminal background as provided in Section 8.1, the individual may submit additional information to the hiring official/supervisor relating to the criminal record and why it should not affect the employment decision. Before the hiring official/supervisor makes a final employment decision, he/she will review all information provided to him/her with OHR and the Office of Police and consult about whether to proceed with an offer or adverse employment action. If either OHR or the Office of Police is of the opinion that the results of the criminal background check indicate that the individual may be unacceptable for the position being filled 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 president or his or her designee.

22.92 Faculty Positions.

22.921 Outside Applicant. Within five business days following the receipt of the report or receipt of information that the individual has a criminal background 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.

22.922 Current Faculty Member. Within five business days following the receipt of the information as provided in 8.1 (unless an extension has been granted by the Dean because the faculty member is on leave and unable to respond in the five day period), 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 recommendation to the Provost. 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.

22.93 External Applicants for Employment. The decision of the University is final and may not be appealed.

22.94 Current Employees. If the individual is a current employee subject to a background check, standard employee grievance procedures are available to challenge the decision. If the criminal record leads to termination, the applicable employee discipline and discharge procedure will be used.

22.10 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 that the action has been taken. It must include

- (a) the name, address, and phone number of the credit reporting agency that supplied the report;
- (b) 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
- (c) 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.

22.11 Post Application/Employment: Self-Report of Charges or Convictions Required.

22.111 External Applicants for Employment. Applicants must report in writing any charges or convictions, excluding misdemeanor offenses punishable only by fine, occurring after the date of application.

22.112 Current Employees: U. T. institution employees must report to their supervisor in writing, within five business days, any criminal convictions, excluding misdemeanor offenses punishable only by fine. Subject to standard grievance and disciplinary procedures as applicable, failure to do so is a violation of policy and may lead to disciplinary action as appropriate.

22.12 Criminal Background Check Records.

Criminal background check records shall be handled and retained in accord with applicable state and federal laws.

Such criminal history or criminal conviction information will be treated as confidential as required by law. Such information will not be made a part of the applicant's file, or the

employee's personnel file, or communicated to any unauthorized person. The release of criminal history information to unauthorized persons is a criminal offense under *Texas Government Code §411.085*.

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. The Chief of Police will notify the Director of Human Resources when the destruction is complete.

If the University has discovered an item of concern through a university-sponsored faculty background check, and the faculty member was cleared, that item will be considered closed for review as long as the faculty member remains in the employ of the university and does not have a significant job change as described in Section 2.2 a of this policy.

22.13 Relevant Federal and State Statutes

Texas Education Code § 51.215 – Access to Police Records of Employment Applicants

Texas Government Code § 411.094 – Access to Criminal History Record Information: Institution of Higher Education

Texas Government Code § 411.081 et seq. – Criminal History Clearinghouse
Texas Government Code § 411.135 – Access to Certain Information by Public *Fair Credit Reporting Act*, 15 U.S.C. § 1681 et seq.

22.14 Relevant Forms

Criminal Background Check Form

22.15 System Administration Office(s) Responsible for Policy

Office for Business Affairs
Office of General Counsel

22.16 Dates Approved or Amended

November 26, 2002
Amended August, 2010

22.17 Contact Information

Questions or comments about this policy may be directed to U. T. System Office of General Counsel (512) 499-4462.

23. Performance Evaluation Program

It is the policy of The University of Texas of the Permian Basin that a written performance evaluation be conducted for all non-faculty employees, excluding student workers. Employees will be evaluated in a manner that does not discriminate against an individual in connection with his or her compensation or the terms, conditions, or privileges of his or her employment.

Probationary employees shall have their work performance evaluated at 90-days and 180-days of employment. These evaluations shall utilize that standard performance evaluation form.

Non-probationary employees shall have their work performance evaluated not less than once per year. Performance evaluations may take place more frequently than once per year at the discretion of the employee's supervisor or other administrative supervisor.

A copy of the completed performance evaluation shall be retained by the appropriate office, such as the Office of Human Resources, for maintenance in an appropriate employee file and a copy shall be retained by the department.

Performance evaluation policy and procedures for faculty issues can be found in The Handbook of Operating Procedures, Part I, Faculty Issues.

24. Prohibited Weapons Policy

I. Title

Prohibited Weapons

II. Policy

- A. Prohibition of Weapons: Except as authorized pursuant to this policy, the use, possession, display or storage of any weapons, simulated weapons, explosives or fireworks on the University campus is prohibited. Individuals who observe a weapon being displayed are required to report the incident immediately to The University of Texas of the Permian Basin Police Department so it can be documented and properly investigated. UTPB Police can be contacted at (432) 552-2911 and (432) 552-2786 for non-emergencies. UTPB Police will refer potential violations of this policy to the Office of Human Resources or the Student Conduct professional as applicable.
- B. Exceptions:
 - 1. Licensed peace officers may carry authorized weapons on the campus.
 - 2. Pursuant to Subchapter H, Chapter 411 of the Texas Government Code, individuals licensed by the state to carry a concealed handgun (License Holder) may carry a concealed handgun in approved areas on the University Campus Beginning August 1, 2016. The following restrictions will apply:
 - a. This exceptions applies only to handguns; therefore, rifles and other weapons are prohibited on the University Campus with the exception of weapons permitted under Section B. 1.
 - b. The University will not provide storage for handguns on the University Campus.

- c. License Holders who reside in University housing areas which are not exclusion zones must safely secure or store their firearms to prevent tampering or theft as required by the University police Department.
3. Exclusion Zones are set forth the in Appendix A. Subchapter H, Chapter 411 of the Texas Government Code gives the presidents of public universities the ability to designate gun-free zones on their campuses. The University has identified exclusion zones based on applicable laws and regulations, the general constituency of the campus population in those areas, safety considerations and any unique and material characteristics of those areas. The Texas Government Code 411.2031(d-1) and the Texas Penal Code 30.06 require notice to be give regarding areas where license holders may not carry concealed guns. Signage will be provided for these areas, using the required wording and format.

C. Training and Awareness

1. In order to improve general campus safety regarding weapons on campus, the University will:
 - a. Provide educational materials for students, faculty and staff regarding active shooter situations.
 - b. Post in a number of prominent locations a concise compilation of campus-carry information and FAQs.
 - c. Promote awareness of available mental health assistance through websites and other types of publicity.

D. Violations and Penalties

1. Reports of faculty or staff violating this policy will be investigated by the Office of Human Resources and individuals will be subject to discipline under the University's Human Resources policies and procedures which may include disciplinary actions up to and including termination of employment for employees.
2. Reports of students violating this policy will be investigated by a University Student Conduct professional and individuals will be subject to discipline under the Student Conduct policy which may include disciplinary actions up to and including expulsion.
3. Suspected violations of law will be reported to the UTPB Police Department or other law enforcement agencies and may result in criminal penalties. A license holder is bound by state and federal law and may face criminal or civil penalties for violation of those statutes. 4. Violations include, but are not limited to:
 - a. Carrying any weapon on the University campus, unless specifically permitted state or federal law or this policy.

- b. In compliance with Texas Penal code 46.035(a-1), a license holder may not carry a partially or wholly visible handgun on the University campus. Handguns must be carried on or about the person. Handguns must be in holsters that completely cover the trigger guard area and that can withstand any movement from jostling, falling, etc.
- c. Causing an intentional, inadvertent or accidental discharge of a firearm that is not justified in the use of force or deadly force.
- d. Using, or threatening to use, a weapon in a threatening or hostile manner.
- e. Taking action which a prudent person would not take in regard to the care or use of the firearm.

5. Penalties: A person who fails to comply with the rules and the regulations prescribed by the University may be subject to University discipline and may also be in violation of the Texas Penal Code. Alleged violations of the Texas Penal Code will be investigated by UTPB Police Department. Investigations of policy violations and criminal violations may run concurrently or separately. The lack of any finding of criminal activity does not preclude the University from finding a violation of policy. Persons in violation of any lawful order to remove a weapon or to leave the University campus are subject to arrest by UTPB Police Department.

- E. Reporting: Not later than September 1st of each even-numbered year, the University shall submit a report to the legislature and appropriate committees that describes all provisions regarding the carrying of concealed handguns on the University campus. The report will contain the rationale for the University's current provisions.

III. Definitions

Handgun: Any firearm that is designed, made or adapted to be fired with one hand.

License Holder: An individual in possession of a current license issued or recognized by the State of Texas to carry a concealed handgun.

Summer Camp: A University sanctioned program with specific objectives designated for high school students or younger and which utilizes facilities that may include housing, dining, classroom, meeting and recreation space.

University Campus: All land and buildings owned or leased by the University.

Weapon: Any object or substance designed to inflict a wound, cause injury, or incapacitate, including without limitation to firearms, BB guns, air guns, pellet guns, zip guns, switchblade knives, knives with a blade over five and one-half inches and other illegal knives or clubs prohibited by statute. Chemicals such as mace, tear gas, or oleoresin capsicum, but excluding normally available over-the-counter self-defense repellants. Possession of chemical repellants labeled for police use only or for law enforcement use only are restricted to law enforcement.

- IV. Relevant Federal and State Statutes
 - Texas Government Code Chapter 411
 - Texas Penal Code Chapter 46
- V. Relevant UT System and Institutional Policies, Procedure and Forms
 - HOP, Part 5, Section 1 – Student Conduct Code
 - HOP, Part 3, Section 19 – Discipline and Dismissal of Classified Employees
 - Campus Carry FAQs
 - The University of Texas of the Permian Basin Police Department Policy and Procedure (pending)
- VI. Who Should Know
 - All member of the campus community, including students, staff, faculty, visitors, contractors, prospective students, and the parent of students and prospective students.
- VII. UTPB Officer(s) Responsible for Policy
 - President
 - Provost and Vice President for Academic Affairs
 - Vice President for Business Affairs
 - Senior Associate Vice President for Student Services
- VIII. Dates Approved or Amended
 - Pending
- IX. Contact Information
 - All questions regarding this policy should be directed to the Senior Associate Vice President for Student Services.

APPENDIX A

Areas of the UTPB campus where carrying a concealed handgun is prohibited include the following exclusion zones:

- a. Locations providing counseling services, which includes the Counseling Center in the Founders’ Building.
- b. Locations providing childcare for minor children, which includes the Child Care Center located in the Student Activity Center.
- c. Locations providing education for K-12, which includes STEM Academy and Early College High School.
- d. Locations primarily used for NCAA, UIL or other ticketed sporting events.

- e. Locations administering contracted testing, which includes the Student Testing and Accommodation Center.
- f. University housing in rooms that are shared by two or more persons.
- g. Locations used for camps and programs for minors, which includes University housing when used for summer camps.
- h. Research labs where highly toxic and volatile chemicals are present.
- i. On a case-by-case basis, any location, or specific time period the University President determines creates a unique situation that poses a threat to the safety of the campus community.