



## Self-Disclosure of Criminal Convictions, Policy 4.17 Managing Self-Disclosed Criminal Convictions

This protocol is used in instances when individuals self-disclose criminal convictions or information is forwarded to the unit or Office of Human Resources (OHR) about a criminal conviction.

### Overall Process – Checklist

- Unit or OHR is informed of an individual’s conviction. Information about the criminal conviction could result from:
  - Self-disclosure by individual to unit SHRP or OHR director of employee relations.
  - SHRP/manager obtained information about conviction from an independent source.
  - Anonymous letter submitted to unit, OHR, Office of Legal Affairs, case filed with anonymous reporting line, etc.
  - Public record – newspapers, etc.
- Unit SHRP notifies and refers conviction information to OHR director of employee relations or designee. The SHRP determines the extent to which the manager will be involved.
- SHRP or designee and OHR director of employee relations or designee assess the case to determine if a background check is necessary.
- SHRP obtains release from individual and processes request for a background check.
- SHRP provides results to OHR director of employee relations or designee. Both parties review the information and a meeting is scheduled with the individual, as necessary.
- SHRP and/or manager meet with the individual to give her/him the opportunity to respond to the record. SHRP/manager shares the individual response with OHR director of employee relations or designee. Based on the record and individual response, follow assessment steps to determine appropriate action.
- OHR and unit determine university action in consultation with the Offices of Legal Affairs and Academic Affairs as necessary. University action may vary depending upon the fact pattern, nature of the conviction, impact, etc.
- University action is implemented and communicated to individual.

### Internal Review Process for the Evaluation of Self-Disclosed Criminal Convictions

#### 1. Assessment

- **Collaborative efforts** – Upon notification of a case involving a self-disclosed criminal conviction, the OHR director of employee relations or designee works collaboratively with the unit’s dean/chair or VP and the SHRP or vice versa.
- **Review criminal conviction** – Information about the criminal conviction is obtained through a background check obtained by the department unless directly provided by the individual<sup>1</sup>. The SHRP must have the individual sign a release to allow the department to do a background check. The seriousness of the offense is assessed by the OHR director of employee relations or designee in coordination with the unit and the Offices of Legal Affairs and Academic Affairs as necessary.
- **Review individual’s work/volunteer history** – Title, unit name, hours of work, length of service, performance if appropriate and relevant, corrective action history, supervisor, whether there is a history of complaints against the individual, and the nature of the allegations.
- **Review individual’s position** – Determine whether the functions she/he performs involve: work with vulnerable populations (e.g., students, patients, children, etc.); access to technology (cases of pedophilia, child pornography, cyber stalking, etc.); residence halls; cash; controlled substances; operation of university vehicles; etc.
- **Assess individual’s duties against nature of crime** – Determine how the extent of the crime could affect the individual’s fitness or ability to continue to perform her/his duties and responsibilities. This is a question of “nexus” between the crime and the functions performed by the individual.

<sup>1</sup> In some instances, the individual may submit all the necessary information from the onset.



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- **Assess risk** – Assess Ohio State’s legitimate interest in protecting and ensuring the safety of students, faculty, staff, or other vulnerable populations when measured against the information above. The issue is whether retaining the individual in her/his position poses an unreasonable risk to the safety and welfare of members of the university community.

### 2. Decision-making

- **Case by case determination** – Cases are assessed based on their unique facts. If the outcome will be removal or termination, consultation with the Office of Legal Affairs may be necessary.
- **Considerations include** – All information outlined above, whether the risk can be minimized, whether there was falsification, or whether individual was untruthful or hindered the assessment of the case.
- **Continued involvement will be determined by:**
  - The viability of the individual remaining at the current position or transferring to a different one. This allows for a determination about the individual’s access to potential “victims,” degree of supervision, amount of access to technology such as the internet, etc. If the individual remains in the position, and an agreement is necessary, the Offices of Human Resources and Legal Affairs collaborate to develop an “agreement” to be issued to the individual.
  - No viability to remain in the role because the risk cannot be minimized. These may include individuals convicted of crimes involving rape, theft, murder, assault, etc. Some positions with an unacceptable degree of access to potential “victims” may include roles such as: security guards, hospital employees, social workers, mental health employees, child care employees, tutors, youth camp counselors, etc. This is not an exhaustive list. In these instances, removal or termination may be appropriate.

### 3. Implementation

- If the individual retains her/his position, a letter of agreement is issued to the individual delineating the continued terms and conditions of involvement, if necessary. Depending upon the nature of the position, monitoring may be necessary.
- If the individual is removed or terminated, a letter of termination will be issued or the appropriate university process will be followed. The letter will contain information about the individual's ineligibility for involvement.
- Information is entered into the system as an “involuntary termination.” The employee relations consultant notifies the talent management consultants of the individual's ineligibility for rehire. Information is entered in the PeopleSoft system.

### 4. Records Retention

- The unit, director of employee relations or designee, and Office of Legal Affairs review the background check data. If it is determined that the individual will continue to be involved with the university, OHR will not maintain the background documents in its central files. The Self-Disclosure of Criminal Convictions form and background check documents will be destroyed in accordance with the [General Records Retention Schedule](#).
- If an agreement is developed as part of the individual’s continued employment/volunteering, this document and the Self-Disclosure of Criminal Convictions form will be housed at the unit. The unit will maintain a copy of the self-disclosure information and agreement in a “controlled file.” This file is not part of the personnel file. If a public records request is filed, the unit must contact the Offices of Human Resources and/or Legal Affairs before responding to the request.
- In accordance with the [General Records Retention Schedule](#), if an employee is terminated, the self-disclosure form and the background check documents are maintained as part of the employee’s personnel file.