

Chapter: Agency Management and Operations Subchapter: Interaction with the Public Rule: Background Checks ACA: 4-JCF-6C-05 Statutes: HR Code §242.010	Effective Date: 10/1/16 Page: 1 of 3 Replaces: GAP.385.8181, 2/15/09
--	---

RULE

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) reviews criminal histories and employment references for certain persons as required under [§242.010 of the Texas Human Resources Code](#).

(b) **Applicability.**

This rule does not apply to:

- (1) youth access to a personal attorney under [§380.9311 of this title](#);
- (2) youth access to a personal clergy member under [§380.9317 of this title](#);
- (3) youth access to visitors under [§380.9312 of this title](#); or
- (4) special event visitors, as defined in this rule.

(c) **Definitions.**

The following terms have the following meanings when used in this rule:

- (1) **Advocate**--a person employed by or otherwise officially associated with an organization registered with TJJD as an advocacy or support group under [§385.8183 of this title](#).
- (2) **Background Check**--obtaining certain information, including, at a minimum:
 - (A) **Criminal History Check**--a compilation of the national and state criminal history information maintained by the Federal Bureau of Investigation and the Texas Department of Public Safety; and
 - (B) **Employment Reference Check**--references from previous and current employers.
- (3) **Contractor**--a person under contract with TJJD individually, or an employee or subcontractor of an organization under contract with TJJD.
- (4) **Covered Person**--
 - (A) an employee, volunteer, ombudsman, or advocate as defined in this rule working for TJJD, in a TJJD facility, or in a facility under contract with TJJD;
 - (B) a contractor who has direct access to youth in TJJD facilities;
 - (C) any person not described in paragraphs (4)(A) or (4)(B) of this subsection who provides direct delivery of services to youth in TJJD custody;
 - (D) any person not described in paragraphs (4)(A) or (4)(B) of this subsection who is authorized to have unsupervised access within TJJD facilities or offices to records of identifiable TJJD youth; or
 - (E) any person who is an applicant for a position described in paragraphs (4)(A)-(D) of this subsection.

- (5) **Employee**--a person employed by TJJJ.
 - (6) **Ombudsman**--a person employed by the Office of Independent Ombudsman.
 - (7) **Special Event Visitor**--a person who:
 - (A) is invited by TJJJ to participate in a special event for the benefit of youth;
 - (B) does not participate in more than four special events in any 12-month period;
 - (C) does not provide direct delivery of services to youth;
 - (D) does not have access to youth records; and
 - (E) does not meet the definition of advocate, contractor, employee, or ombudsman.
 - (8) **Volunteer**--a person registered in a position that renders services for or on behalf of TJJJ that does not receive compensation in excess of reimbursement for expenses incurred in that position, or a person who participates in more than four special events in a 12-month period. For purposes of this rule, volunteer does not include special event visitors.
- (d) **General Provisions.**
- (1) Except as described in paragraph (2) of this subsection, TJJJ's executive director or his/her designee:
 - (A) conducts a background check on each covered person prior to granting the person access to youth, youth records, or any residential facility operated by or under contract with TJJJ; and
 - (B) conducts a criminal history check on each covered person at least once per year thereafter.
 - (2) The TJJJ executive director or his/her designee may waive the background check:
 - (A) for a contractor when physical or procedural barriers are in place to prevent the contractor from having contact with or access to TJJJ youth, and the scope of services to be performed does not involve access to youth records;
 - (B) for a contractor who has an independent legal obligation to protect the confidentiality of youth records, and the scope of services to be performed does not involve access to youth;
 - (C) for a covered person who provides direct delivery of off-site services to youth assigned to residential facilities when the person is required to submit to a background check as a condition of professional licensure or employment (e.g., health care specialist referrals);
 - (D) for a covered person providing necessary services in an emergency situation when no appropriately screened service providers offering the same or similar service are immediately available and a delay in providing the service would risk significant harm to a youth (e.g., emergency room visits or rape crisis counseling); or
 - (E) for a covered person, other than a TJJJ employee, providing services in his/her official capacity as an employee of a federal, state, or local governmental entity.
 - (3) TJJJ does not assess a fee in connection with the administrative costs incurred in conducting a background check as described in this rule.
 - (4) As part of the initial criminal history background check, a covered person must electronically provide a complete set of fingerprints to TJJJ in the manner determined by TJJJ.

- (5) A covered person must provide employment history information in a form and manner determined by TJJJ.
- (6) All criminal history information obtained from the National Crime Information Center or any state crime information database is confidential and may be released only in accordance with applicable law.

(e) **Standards for Evaluating Background Information.**

- (1) Background check results for covered persons are evaluated according to standards established in TJJJ's policies addressing eligibility for employment or assignment in effect at the time the background check is conducted.
 - (2) When a background check reveals criminal or employment history that is unacceptable for the position or service to be performed by an employee or volunteer, TJJJ terminates or denies that employee's or volunteer's employment or enrollment. TJJJ provides written notice to the employee or volunteer whose employment or enrollment is terminated or denied.
 - (3) When a background check reveals criminal or employment history that is unacceptable for the position or service to be performed by a contractor, advocate, or ombudsman, TJJJ denies the person access to any or all of the following, as appropriate: youth, youth information, and TJJJ facilities. TJJJ provides written notice to the contractor, advocate, or ombudsman whose access is denied.
-
-