

Chapter: Conditions of Employment	Effective Date: 9/15/13 Page: 1 of 2 New
Title: PREA: Employment Standards, Background Checks, and Self-Reporting Requirements	
ACA: N/A	
Statute(s): 28 C.F.R §115.317	

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) makes a good-faith effort to comply with Prison Rape Elimination Act (PREA) standards relating to hiring and promotion decisions.

- (1) Applicants for employment with TJJD must meet the standards in this policy to be eligible for hire.
- (2) TJJD employees must continue to meet the standards in this policy to remain employed by TJJD.
- (3) To ensure that PREA employment standards are met, TJJD:
 - requires applicants and employees to answer questions about previous misconduct that violates PREA employment standards;
 - obtains employment references in accordance with [PRS.05.13](#), which involves:
 - considering any reported incidents of [sexual harassment](#); and
 - obtaining information from prior institutional employers on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse;
 - performs pre-employment and annual criminal history checks and receives flash notifications of arrests in accordance with [PRS.02.08](#);
 - requests the Department of Family and Protective Services (DFPS) to conduct a check of the Central Registry of Child abuse and Neglect (child abuse registry) established and maintained by DFPS; and
 - requires employees to self-report violations of PREA employment standards to their supervisor or local human resources administrator (HRA).
- (4) A violation of a PREA employment standard, failing to report the violation, or providing untruthful information regarding the violation is grounds for termination through the disciplinary process.

(b) **Applicability.**

- (1) This policy applies to applicants for TJJD employment and current employees.
- (2) PREA employment standards and child abuse registry checks apply to employees of a TJJD contractor or subcontractor of a contractor who may have access to youth in TJJD-operated or TJJD-contracted facilities, unless the contract was executed before September 15, 2013.

(c) **Additional Resources.**

- (1) PRS.02.08 (Criminal History: Standards, Background Checks, and Self-Reporting Requirements) – this policy establishes criminal history standards that applicants for TJJD employment must meet and TJJD employees must maintain (e.g., no convictions for an offense requiring registration as a sex offender).
- (2) TJJD Employment Application Supplement,  [HR-003](#) – this form notifies applicants of:
 - PREA employment standards; and
 - the child abuse registry check process.

(d) **Definitions.**

- (1) For definitions of certain terms used in this policy, see the [PREA Glossary](#).
- (2) For the definition of “institution” as used in this policy, see [PRS.05.13](#).

(e) **PREA Employment Standards.**

To be eligible for employment with TJJJ, an applicant or employee must not have:

- (1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
- (2) been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- (3) been civilly or administratively adjudicated to have engaged in the activity described in [\(e\)\(2\)](#) above.

(f) **Process for Conducting Child Abuse Registry Checks.**

- (1) Central Office Human Resources background investigation specialists request DFPS to conduct a child abuse registry check as part of the clearance process for all external applicants being seriously considered for hire. At the direction of the human resources director or designee, a child abuse registry check is requested for internal applicants being seriously considered for another position.
- (2) DFPS provides TJJJ with confirmation of a negative finding if there is no match in the registry.
- (3) If TJJJ does not receive confirmation of a negative finding:
 - (A) TJJJ considers there to be an open child abuse investigation and potential PREA standard violation; and
 - (B) the applicant is disqualified from further consideration unless he/she provides TJJJ sufficient information to allow TJJJ to determine that the applicant should not be disqualified from employment (e.g., investigation is closed and the applicant is not listed as a designated perpetrator in the child abuse registry or the nature of the adjudication does not meet the criteria in [\(e\)\(3\)](#) above).
- (4) If TJJJ does not receive sufficient information to clear an applicant in a timely manner after requesting the child abuse registry check, TJJJ may select another applicant for the position.
- (5) Human Resources management and the Office of General Counsel may determine it is in the agency’s best interest to disqualify an external applicant or terminate an employee for a civil or administrative adjudication or DFPS *Reason to Believe* finding based on the nature of the underlying conduct and its relationship to the duties of the position even if the finding is not an automatic disqualifier for employment.

(g) **Disclosure of PREA Standard Violation.**

- (1) The Disclosure of PREA Employment Standards Violation form,  [HR-975](#), must be completed:
 - (A) during the interview process by external and internal applicants;
 - (B) during the annual performance evaluation process by employees; and
 - (C) immediately by an employee who is self-reporting a PREA violation to his/her supervisor or local HRA.
 - (2) A “yes” answer to any of the questions on the HR-975 form results in:
 - (A) an external applicant being disqualified from employment with TJJJ; and
 - (B) a current employee being administratively separated from employment in accordance with [PRS.11.21](#) due to ineligibility for continued employment.
-
-