

Chapter: Selection and Hiring Title: Background Checks ACA: 4-JCF-5C-01, 6C-03, 6C-05 Statute(s): 42 U.S.C. §1997 28 C.F.R §115.317 Tex. Hum. Res. Code §242.010	Effective Date: 9/15/13 Page: 1 of 5 Replaces: PRS.05.13, 12/1/11
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(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) conducts background checks during the selection and hiring process. Offers of employment are conditional pending satisfactory results from the background check.

(b) **Applicability.**

- (1) This policy applies to internal and external applicants for TJJD employment.
- (2) Any reference to former employees applies to former employees of TJJD, the Texas Juvenile Probation Commission, and the Texas Youth Commission.

(c) **Definitions.**

Except as noted below, see the [PRS glossary](#) for definitions of certain terms used in this policy.

Institution – For purposes of employee background checks, “institution” has the meaning given by 42 U.S.C. 1997, which states:

[A]ny facility or institution which is owned, operated, or managed by, or provides services on behalf of any State or political subdivision of a State; and which is:

- for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;
- a jail, prison, or other correctional facility;
- a pretrial detention facility;
- for juveniles:
 - held awaiting trial;
 - residing in such facility or institution for purposes of receiving care or treatment; or
 - residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or
- providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(d) **Procedures.**

(1) **Employment and Personal References.**

(A) **General Information.**

- (i) Hiring authorities should consider the information obtained as a result of employment and personal references as an important factor in the selection decision.

- (ii) The appropriate Human Resources office obtains the employment and personal references required by this policy for:
 - (I) JCO I – IV applicants being considered for an institution position; and
 - (II) the top applicant(s) for all other positions.
- (iii) The hiring authority may obtain additional employment and personal references (e.g., from co-workers or supervisors) in addition to those required by this policy. The hiring authority must document any additional external or personal references in accordance with this policy.

(B) References from Internal Sources.

(i) Internal Background Review for JCO I – IV Positions at Secure Facilities.

For every current or former employee who is an applicant for a JCO I – IV position at a secure facility, Central Office Human Resources obtains and records the following information on the JCO Background Status Report, [HR-332](#):

- (I) the applicant's rehire status;
- (II) whether the applicant was the subject of any confirmed or pending investigations involving [youth](#) mistreatment, equal employment opportunity violations, or other serious misconduct;
- (III) any formal disciplinary actions; and
- (IV) performance evaluation history.

(ii) Internal Background Review for Other Positions.

(I) Local Human Resources Office Responsibilities.

If a current or former employee is being considered for any position other than a JCO I – IV position at a secure facility, the local human resources office completes an Internal Background Review form, [HR-026](#), to ensure the hiring authority is aware of the applicant's:

- (-a) most recent performance evaluation;
- (-b) pending disciplinary actions based on a confirmed or pending investigation;
- (-c) disciplinary actions within the last two years of employment; and
- (-d) disciplinary actions imposed before the last two years of employment if the action was more severe than disciplinary probation and involved:
 - (-1-) inappropriate interaction with a youth;
 - (-2-) inappropriate interaction with an employee; or
 - (-3-) failure to properly respond to such a violation.

(II) Hiring Authority's Responsibilities.

- (-a) The hiring authority reviews the information provided on or attached to the HR-026 form. In addition, the hiring authority should request employment references from the applicant's current TJJJ supervisor and/or prior TJJJ supervisors who are still employed by TJJJ.

Note: If the applicant is selected and these additional employment references were a factor in the selection decision, the hiring authority must indicate this on the Applicant Selection Justification form, [HR-025](#).

- (-b-) The hiring authority indicates on the [HR-026](#) form whether he/she:
 - (-1-) is no longer considering the applicant for the position; or
 - (-2-) wants to proceed with the selection process.
- (-c-) The hiring authority must obtain additional approvals to proceed with the selection process if the internal review process reveals:
 - (-1-) the most recent performance evaluation was unsatisfactory;
 - (-2-) pending disciplinary action based on a confirmed or pending investigation; or
 - (-3-) a prior suspension, demotion, or termination resulting from inappropriate interaction with a [youth](#) or employee or failure to take appropriate action in response to such a violation;
- (-d-) The additional approvals required by (-c-) above are:
 - (-1-) the hiring authority's chief local administrator (if the hiring authority is not the chief local administrator);
 - (-2-) the division director or designee; and
 - (-3-) the human resources director or designee.

(III) **Current or Former Supervisor's Responsibilities.**

Upon receiving a request from a TJJJ hiring authority or the local human resources office for an internal employment reference, a TJJJ supervisor must:

- (-a-) candidly provide job-related information and opinions regarding the performance and conduct of the current or former employee; and
- (-b-) not provide any information regarding the applicant's:
 - (-1-) personal information unrelated to the job;
 - (-2-) complaint or grievance history;
 - (-3-) claims of workplace injury;
 - (-4-) medical or physical conditions or a past or present disability;
 - (-5-) use of leave due to illness or injury (regardless of the type of leave used); or
 - (-6-) request for an accommodation under the Americans with Disabilities Act or if an accommodation has been granted.

(C) **References from External Sources.**

(i) **Required Documentation.**

External employment references must be documented on:

- (I) the Applicant's External Employment Reference form, [HR-015b](#), or;
- (II) the TDCJ/TJJJ Employer Reference Request, [HR-018](#), if the reference is from the Texas Department of Criminal Justice.

(ii) **Employment References for Internal Applicants who Worked at Criminal Justice Agencies.**

If an employee applying for a correctional series position is currently in a non-correctional series position and indicates on the employment application that he/she has work experience involving direct care of a population at a criminal justice agency other than TJJD, TJPC, or TYC, the appropriate human resources office must obtain an employment reference from each external criminal justice agency. The only exception is if the employee's personnel file already contains an employment reference from the criminal justice agency.

(iii) **Employment References for External Applicants.**

The number of required employment references is dependent upon the type of references obtained.

- (I) If an external applicant indicates on the employment application that he/she has work experience at one or more external institutions, the appropriate human resources office must attempt to obtain an employment reference from each institution employer. However, if the external applicant is a former employee and his/her personnel file is available and already contains an employment reference from the institution, the local HR office does not need to obtain a reference, unless the employee *again* worked for the institution after separation from TJJD.

Note: A reference from an institution employer might be the same reference obtained in compliance with the procedures in (II) below or may be an additional reference.

- (II) The appropriate human resources office must attempt to obtain an employment reference from the most recent employer. If a reference from the most recent employer is not obtained or does not cover at least five continuous years, two employment references are required. If more than one reference is required, the human resources office must attempt to obtain references in order from the most recent to least recent employment.

(iv) **Personal Reference in Lieu of Employment Reference.**

- (I) A personal reference for an external applicant must be documented on the Applicant's Personal Reference form, [HR-015p](#).
- (II) A personal reference may be obtained in lieu of an employment reference only when it is not possible to obtain the required number of external employment references due to:
- (-a-) the applicant's limited work history; or
 - (-b-) inability to contact a previous employer.

Note: The human resources office must attempt to locate a previous employer via the Internet if the phone number provided by the applicant is no longer a working number.

- (III) A personal reference may include:
- (-a-) a former or current co-worker, client, or other business associate;
 - (-b-) the applicant's current or former principal, teacher, coach, professor; or
 - (-c-) an associate from a professional, social, or volunteer organization.

(IV) A personal reference must never include:

- (-a-) a relative; or
- (-b-) a friend who does not meet one of the above criteria.

(2) **Background Checks of Criminal Record, Child Abuse Registry, and Driving Record.**

Background checks of criminal records, the child abuse registry, and driving records are conducted only on applicants being seriously considered for hire.

- (A) The designated human resources specialist, or other individual authorized to access the electronic Criminal Records Check Request Form, submits the electronic request to the background investigation specialists in Central Office Human Resources.
- (B) The following policies explain how the background checks are conducted and how decisions are made regarding disqualification for employment:
 - (i) [PRS.02.08](#) for criminal history background checks;
 - (ii) [PRS.02.07](#) for child abuse registry checks; and
 - (iii) [PRS.02.05](#) for driving record checks.

(3) **Credential Check (College Degrees, Licenses, and Certificates).**

The appropriate human resources office verifies and documents the selected applicant's college degrees, appropriate coursework, and licenses or certificates if the position requires these credentials. If hired, transcripts and other documentation related to credentials are maintained in the employee's personnel file.
