



TRANSMITTAL MEMO

TO: TJJJ Staff
FROM: Office of the General Counsel, Policy and Standards Section
SUBJECT: PRS Transmittal
DATE: July 19, 2019

Please be advised that changes have been made to the Personnel Policy and Procedure (PRS) Manual. These changes will go into effect on **July 22, 2019**.

SUMMARY OF CHANGES

PRS.02.08 Criminal History: Standards, Background Checks, and Self-Reporting Requirements

WHO IS COVERED BY THE CRIMINAL HISTORY STANDARDS

- Created one set of criminal history standards that applies to all employees and applicants. There is no longer any difference in standards for correctional series positions and non-correctional series positions.
- Added that volunteers are subject to the same criminal history standards and self-reporting requirements as TJJJ employees. Community resource coordinators will now document self-reports from volunteers.
- Clarified that contractors *working with youth records* (in addition to those working directly with youth) are subject to the same criminal history standards as TJJJ employees.
- Added that individuals with access to TJJJ youth at contract-care facilities *must meet the same criminal history standards as TJJJ employees*, in addition to other standards required for the type of facility (i.e., either DFPS standards or TJJJ's Texas Administrative Code standards).
- Added that *annual* criminal history checks are conducted on *volunteers and certain contractors* (in addition to employees). Also specified that additional criminal history checks may be conducted randomly or as directed by the executive director.

CHANGES TO THE CRIMINAL HISTORY STANDARDS

- Revised the criminal history that requires automatic disqualification. It now consists of:
 - Ever convicted or received deferred adjudication for any felony.
 - Ever convicted or received deferred adjudication for domestic violence involving a family member or non-spouse partner.
 - Ever convicted or received deferred adjudication for official oppression.
 - Current requirement to register as a sex offender.
 - Arrest for a disqualifying offense. (An arrest that has been expunged is not considered an arrest and may not be used.)
 - Outstanding warrant (with some exceptions).
- Created a new set of criminal history standards that requires an automatic review by the director of human resources and the general counsel or their designees and any other appropriate, authorized staff. The criminal history requiring this review consists of:
 - Ever convicted or received deferred adjudication for a Class A or B misdemeanor involving violence against a person, other than one that is an automatic disqualifier.
 - Ever convicted or received deferred adjudication for a Class A or B misdemeanor in which a child under age 17 is a victim or is directly endangered.

- Convicted or received deferred adjudication for a Class A or B misdemeanor drug offense in the last 10 years.
- Convicted or received deferred adjudication for any Class A or B misdemeanor in the last five years.
- Subject of a currently active protective order.
- Currently serving a term of probation for a criminal offense that is not an automatic disqualifier.
- Arrest for Class A or B misdemeanor that involves violence against a person (unless it is an automatic disqualifier) or a child under 17 being victimized or directly endangered. (An arrest that has been expunged is not considered an arrest and may not be used.)
- Added a list of factors that may be considered during any review of criminal history.
- Added that arrests that have been expunged and sealed juvenile records may not be considered.
- Added that, in addition to convictions and pending charges, TJJJD may also consider a deferred adjudication or other pattern of conduct that indicates risk, which may include juvenile adjudications, in exercising its ability to terminate or disqualify a person based on the agency's best interests, regardless of the standards in this policy.

ACCESS TO CRIMINAL HISTORY INFORMATION

- Added that a staff member may access criminal history information or receive this information about another person only if he/she has been authorized through the state-approved process for accessing federal criminal history information.
- Added that information obtained from a criminal record check may be disclosed to the *executive director, general counsel or designee, and manager over volunteer services* (in addition to the chief local administrator and others who have a need to know).
- Removed the local human resources administrator and hiring authority from the list of staff who are authorized to receive information from a criminal history record check.

OTHER CHANGES

- Added that the policy is to be applied to conduct of current employees occurring on or after the effective date.
- Added that a hiring authority must obtain approval from the chief local administrator if the hiring authority decides not to hire an applicant based on:
 - any criminal history, if the applicant had already been cleared by the Central Office review; or
 - any other documented behavior obtained through the background check process (e.g., internal reference checks, information from previous employers).
- Added that a volunteer with an outstanding warrant may not participate in the volunteer program until the warrant is withdrawn or otherwise resolved.
- Added that a volunteer who is arrested or charged with a criminal offense will be suspended from the program pending the outcome of the case.
- Added a process to request an override by the executive director of any decision made based on a person's criminal history.

PRS Appendix A Glossary

- Added a definition for *Deferred Adjudication*.
- Changed the definition of *Conviction* to no longer include deferred adjudication.
- Removed the term *Applicant with a Prior Conviction/Incarceration*, which is not used in this manual.
- Added that, for purposes of employee disciplinary rules, the term *Youth* also includes all youth under the jurisdiction of a juvenile court or supervision of a juvenile probation department (in addition to TJJJD youth).
- Replaced the term "juvenile correctional officer" with "youth development coach" throughout the appendix.