

Ohio Department of Youth Services Standard Operating Procedure

Standard Operating Procedure Number: 103.03.04	Title Pre-Employment Background Investigations	Effective Date: April 1, 2010
Local Procedure: Prohibited	Division: Human Resources	Revision Date: May 10, 2013
ACA Standards: 2-CO-1C-10, 2-CO-1C-18, 3-JTS-1C-15, 4-JCF-6C-05, 2-7035, 2-7036, 3-JCRF-1C-10, 115.317		
 Assistant Director		 Bureau Chief, Human Resources and Employee Relations

I. Policy Provision

Pursuant to ODYS Policy 103.03 Selection and Promotion of Personnel, this standard operating procedure provides specific guidelines with regard to properly conducting a criminal record check for all new employees [2-CO-1C-18, 3-JTS-1C-15, 4-JCF-6C-05, 2-7036, 3-JCRF-1C-10, PREA 115.317]. It is the intent of the Ohio Department of Youth Services to hire applicants who are youth-focused while conforming to legal requirements. Therefore the criminal convictions deemed as absolute bars for employment are Ohio legal requirements for all individuals working with youth.

II. Applicability

This standard operating procedure shall apply to all applicants who are interested in employment with the Ohio Department of Youth Services and employees authorized to conduct criminal and reference checking.

III. Definitions

Background Investigation – An investigation to include verification of credentials, a criminal history review, and an examination of professional and/or employment references.

LEADS – Acronym for the Law Enforcement Automated Data System, a modern communication and information retrieval system, telecommunication link and computerized filing system designed to assist Ohio’s criminal justice community. The primary objective of the system is to provide greater safety for law enforcement officers and the public. A secondary objective is to assist criminal justice agencies with performing their legislated responsibilities.

Practitioner – An employee of ODYS who is allowed access to information obtained from LEADS but is not qualified to operate the LEADS computer.

Position Number (PN) – A unique number assigned to each employment position with an agency.

Prison Rape Elimination Act (PREA) – The first United States federal law passed dealing with the sexual assault of prisoners. The bill was signed into law on September 4, 2003.

Site Manager – Director (or designee) for Central Office, Superintendent for Institutions, and Regional Administrator for Regional Offices.

STRS – Acronym for the State Teaches Retirement System.

TAC – Acronym for Terminal Agency Coordinator. This person is appointed by the Chief Inspector to monitor local system use and ensure the security of LEADS equipment and data.

Test Designated Positions – Those positions determined by the Ohio Department of Administrative Services, Drug Free Workplace Services Programs to be of a safety-sensitive nature. A listing of these positions can be found in the Ohio Department of Administrative Services Drug Free Workplace Drug Testing Programs Manual.

IV. Procedure

A. Pre-Employment Background Investigations

1. The site personnel office shall complete a background investigation on each applicant being recommended for employment, including external candidates, state transfers, and interns.
2. The background investigation shall include:
 - a. Two (2) professional and/or employment references,
 - b. Required education and/or license verification,
 - c. LEADS record check,
 - d. Local police checks,
 - e. Prior state service check with Department of Administrative Services, Employee Records Unit,

- f. Check the Ohio Department of Mental Retardation and Developmental Disabilities Online Abuser Registry (see the ODMRDD website for a listing: http://odmrdd.state.oh.us/apps/internet/abs/abuse_default.asp),
 - g. eSORN (Electronic Sex Offender Registration and Notice, and
 - h. Fingerprinting with results sent to the Ohio State Bureau of Criminal Identification & Investigation (BCI&I).
 3. Once the site personnel office completes the background investigation, all supporting documentation shall be reviewed by the Site Manager to determine if the applicant is suitable for hire.
 - a. If the applicant is approved for employment, the Personnel Office shall notify the applicant and advise him or her of the next step in the process.
 - b. If the applicant is not approved for employment as a result of not successfully passing the background investigation, he or she shall no longer be considered for employment.

B. Reference Checks and Educational Verification

1. The Personnel Office shall ensure that at least two (2) professional and/or employment references are contacted.
 - a. The applicant shall provide a listing of references on the ODYS 103.03.04.A Consent for References.
 - b. Reference check information shall be documented on ODYS 103.03.04.B Reference Check Verification.
 - c. If an applicant is recommended for hire who has a negative reference, the Site Manager shall write a justification.
2. Any educational requirements as outlined by the classification specifications shall be verified. The Personnel Office shall ensure that the highest educational achievement obtained beyond a high school degree or GED is verified. Such information may be documented on ODYS 103.03.04.C Educational Verification.
3. Verifications may be obtained by mail, fax, telephone, or e-mail. If verbal verification is obtained, the site personnel office shall document such information.

C. Criminal Record Check

1. A criminal record check shall be conducted on all new employees [2-CO-1C-18, 3-JTS-1C-15, 2-7036, 3-JCRF-1C-10, PREA 115.317]. Bureau of Criminal

Identification and Investigation information shall be obtained through the Law Enforcement Automated Data System terminal (LEADS), located at Central Office.

2. The Human Capital Management Analyst or Human Resource designee who is designated a practitioner at each site shall send a written request to the TAC Officer for a LEADS check utilizing the CCH/III Criminal History Record Dissemination Log (this LEADS Request log can be obtained from the Chief Inspector's Office) with the following: applicant's name, social security number, date of birth, title and PN, reason for request, as well as the requestor's name.
3. The TAC Officer shall retrieve a report from LEADS and communicate the information to the requestor via email, telephone or in person. No LEADS printouts shall be forwarded from the Chief Inspector's Office. The printouts shall be destroyed in an approved manner by the Chief Inspector or designee, in accordance with LEADS steering committee policies
 - a. No applicant of a position who will be paying into the State Teachers Retirement System shall be hired if the applicant has pleaded guilty to or been convicted of any of the offenses/charges listed in ODYS Form 103.03.04.E. This list reflects those offenses outlined in ORC 3319.39 and 3301-20-01-C through E, but shall also include a violation of an existing or former law of Ohio or another state that is substantially equivalent to any of the offenses or violations listed in ODYS Form 103.03.04.E.
 - b. No applicant of a position who will not be paying into the State Teachers Retirement System shall be hired if the applicant has pleaded guilty to or been convicted of any of the offenses/charges listed in ODYS Form 103.03.04.F.
 - c. Any applicant of a position who will not be paying into the State Teachers Retirement System that has pleaded guilty to or been convicted of any of the offenses/charges listed in ODYS Form 103.03.04.G shall be considered for employment if he/she has been off supervision for at least five years and meets the rehabilitative criteria list in ODYS Form 103.03.04.I.
 - d. Any applicant of a position who will not be paying into the State Teachers Retirement System that has pleaded guilty to or been convicted of any of the offenses/charges listed in ODYS Form 103.03.04.H shall be considered for employment if he/she has been off supervision for at least three years and meets the rehabilitative criteria list in ODYS Form 103.03.04.I.
 - e. If an applicant is recommended for hire who has a misdemeanor charge, not listed in ODYS Forms 103.03.04.G and 103.03.04.H, the Site Manager shall write a justification.

- f. The Ohio Department of Youth Services may hire a qualified applicant with a verified felony criminal record. Please note that there are three categories in which an applicant with a felony conviction can fall.
 - i. Absolute Bars – Any applicant with any of the offenses listed in ODYS Forms 103.03.04.E and 103.03.04.F are not eligible for hire.
 - ii. Applicant Off Supervision for Five Years – Those applicants who have been off supervision for at least five years for the offenses listed in ODYS Form 103.03.04.G as well as satisfy the rehabilitative criteria set forth in ODYS Form 103.03.04.I.
 - iii. Applicant Off Supervision for Three Years – Those applicants who have been off supervision for at least three years for the offenses listed in ODYS Form 103.03.04.H as well as satisfy the rehabilitative criteria set forth in ODYS Form 103.03.04.I.

To hire such an individual, a letter of recommendation shall be submitted by the Site Manager or appropriate Central Office administrator using ODYS Form 103.03.04.D Approval Request to Employ Ex-Felon [2-CO-1C-10, 2-7035]. The Director, or designee, shall make the final determination of employment.

4. The information received from LEADS and FBI shall remain confidential and only be used as part of the Ohio Department of Youth Services' applicant hiring process.
5. When an applicant is approved for hire, all information that was submitted (i.e. local police checks, references and all pertinent information) shall be maintained by the site Personnel Office for the duration of the employee's tenure with the department and in accordance with record retention schedules.
6. An applicant's background check (i.e., police checks, references) shall be confirmed before a conditional offer of employment can be made. A conditional offer of employment can be made before the FBI prints are returned, noting that if the FBI check indicates a selected person may have falsified his/her application, that person may be subject to removal or denial of the position.
7. All criminal records returned to the Personnel Office are considered confidential materials and such information is not available for public use.

D. Fingerprinting

1. The Human Capital Management Analyst or designee shall obtain fingerprints on the FBI fingerprint card or through WebCheck.

2. The applicant's FBI fingerprint card shall be mailed to the Ohio State Bureau of Criminal Identification & Investigation, P.O. Box 365, London, Ohio 43140. The fingerprint card shall be sent only after the site personnel office has received the LEADS check.

E. Pre-Employment Drug Testing

1. Drug Testing Administration

- a. The site personnel office shall schedule an applicant for a time to go to the collection sites and notify the applicant of that time.
- b. The agency drug test shall be done as soon as possible after the notification, but not beyond thirty-two (32) hours after the initial notification.
- c. If an applicant fails to keep the scheduled appointment and cannot provide just cause as determined by the site's Managing Officer, or designee, the applicant will not be considered for hire.
- d. Applicants who refuse to be tested or whose actions impede the collection process shall not be considered for hire.
- e. An applicant's attempt to alter or substitute the specimen provided will be deemed the same as a refusal to take the drug test.
- f. Any applicant who tests positive will not be eligible for state employment for one year following the date of the positive test result.

2. Unclassified Positions

- a. All Unclassified positions shall be required to submit to and successfully pass an agency drug test.
- b. For any intermittent, temporary or external interim appointments, only those employees expected to work for four months or more in a safety-sensitive position for which drug testing is normally required shall be subject to an agency drug test.
- c. The Deputy Director of Human Resources, or designee, has the discretion not to test an applicant who is a state employee, who has a test on record and who also has not had a break in service.

3. Test-Designated Positions and Positions that Have Direct Contact with Youth

- a. Final applicants who are not state employees who are applying for safety-sensitive positions shall submit to and successfully pass an agency drug test as a condition of employment.
- b. The Deputy Director of Human Resources, or designee, has the discretion not to test an applicant who is a state employee, who has a test on record and who also has not had a break in service.

V. Attachments

- 103.03.04.A Consent for References
- 103.03.04.B Reference Check Verification
- 103.03.04.C Educational Verification
- 103.03.04.D Approval Request to Employ Ex-Offender
- 103.03.04.E Standards of Employment for Applicants with Criminal Convictions – Offenses That Are Absolute Bars to Employment within ODYS for All Positions Paying Into the State Teachers Retirement System
- 103.03.04.F Standards of Employment for Applicants with Criminal Convictions – Offenses That Are Absolute Bars to Employment within ODYS for All Positions Not Paying Into the State Teachers Retirement System
- 103.03.04.G Standards of Employment for Applicants with Criminal Convictions – Offenses Eligible for Rehabilitation Only if the Applicant Off Supervision for Five Years
- 103.03.04.H Standards of Employment for Applicants with Criminal Convictions – Offenses Eligible for Rehabilitation Only if the Applicant Off Supervision for Three Years
- 103.03.04.I Rehabilitation Criteria

VI. Monitoring

Monitoring and annual review of this SOP shall be the responsibility of the Bureau of Human Resources and Employee Relations, the Deputy Director of Legal Services, and the Chief Inspector.

VII. References

- Ohio Revised Code 3319.39
- Ohio Department of Administrative Services Drug Free Workplace Drug Testing Programs Manual, <http://www.das.ohio.gov/hrd/pdf/dfwpmanual.pdf>
- Prison Rape Elimination Act of 2003 (PREA), Public Law 108-79, September 4, 2003