D.2.3.1 (Procedure) Criminal History Background Checks and Drug Testing
Responsible Department: Human Resources
Based on Board Policy: D.2.3 – Qualifications for Hire
Approved: 4-28-09
Last Amended: 11-8-16, 5-29-17

Conditional Job Offers

All job offers are conditional upon successful completion and approval of the criminal history background check and drug test, if applicable. A criminal history background check is required of every candidate for hire.

Definitions Relating to Criminal History Background Checks

"Conviction" means a finding of guilt or acceptance by the court of a plea of guilty or no contest (nolo contendere).

"Security Sensitive Positions" are positions that are described in Texas Education Code 51.215 as positions in which the employee handles money, has access to a computer terminal, has access to personal information or identifying information of another person, has access to financial information of another person, has access to a master key, or works in a security-sensitive position designated by the College District.

Criminal History Background Checks

Under authority of Subchapter E of Chapter 51 of the Texas Education Code, chapter 411 of the Texas Government Code and the Fair Credit Reporting Act, [15 U.S.C. 1681b(a)(3)(B) et seq.], the Alamo Colleges District is entitled to obtain a criminal history background check of applicants for employment, including employees under consideration for internal transfer or promotion, volunteers, and independent contractors and their employees that do business with the College District if the employment or relationship with the College District involves a security-sensitive position as defined by Texas Education Code 51.215 and Texas Government Code Sec. 411.094. A criminal background check will be completed on every candidate recommended for hire because all employees have access to a computer terminal. Job offers are contingent on satisfactory criminal background check results.

The criminal background check will be repeated if an employee is recommended for transfer or promotion to the position of police officer, child care worker or, a position that routinely requires handling-cash or conducting or receiving financial transactions unless the employee has already been screened by Alamo Colleges District. If a position requires an updated criminal background check at the time of recommendation for promotion or transfer, the requirement will be included in the job description and the job posting. A criminal background check may be conducted of other current employees as permitted by law.

Applicants for security-sensitive positions, including employees under consideration for internal transfer or promotion, independent contractors/contractors' employees, and volunteers, may be required to provide a complete set of fingerprints and other identifying information, upon request, in order for the criminal history to be checked. The College District may deny

employment, transfer, or promotion to an applicant or employee, and may refuse to enter into a relationship with an independent contractor/contractor's employee, or volunteer, for a security-sensitive position, if the individual or independent contractor fails to provide a complete set of fingerprints upon request.

The Chief of the College District Police Department shall be responsible for checking records for College District Police Department positions in compliance with Texas Education Code 51.215 after consultation with the Human Resources department, and the Human Resources department shall be responsible for checking records for other positions in compliance with Texas Education Code 51.215.

The College District shall not employ a person, contract with an independent contractor/contractor's employee, or enlist a volunteer who has been convicted (to include probated sentences and deferred adjudication) of a felony or misdemeanor involving any type of sexual contact with a child or abuse of a child that includes, but is not limited to, indecency with a child, injury to a child, or endangerment of a child.

The College District reserves the right to refuse to employ a person, contract with an independent contractor/contractor's employee, or enlist a volunteer who has been convicted (to include probated sentences and deferred adjudication) of a felony, or of a misdemeanor involving (1) theft, burglary, or robbery as defined in the Texas Penal Code, (2) the use or possession of an unlawful weapon or firearm, or (3) any other serious offense as determined by the College District.

Potential independent contractors/contractors' shall disclose such convictions to the College District before entering into a relationship with the College District. Failure to disclose this information shall be grounds for denial or termination of the relationship.

Background check results may affect an employment decision or a decision regarding the relationship between the College District and an independent contractor/contractor's employee, or volunteer. All job and other offers are conditional upon successful completion and approval of the criminal history background check, if applicable.

Consent

Any employee requested to submit to drug and/or alcohol testing must sign a consent form (included in the College District employment application) prior to the test. Such consent will allow the laboratory to send the results to the College District for its use in evaluating the applicant or employee for initial or continued employment.

Notice to Applicants

For all posted positions, the Human Resources Department shall ensure that all advertisements include the following phrase or similar language: "Applicants selected for employment may be required to undergo a pre-employment criminal history background check and possibly a pre-employment drug test." For all non-posted positions, the department that is filling the position shall notify applicants selected for employment about the College District's pre-employment criminal history background check and drug testing policy prior to being appointed and tested.

Application Requirements

Before an applicant is considered for a position, he/she must fully and truthfully complete an employment application and sign it by checking the signature box at the bottom of the online application, which provides the College District's written consent to perform a criminal history background check and pre-employment drug testing, if appropriate. The application also requires the applicant to disclose any prior conviction, as defined herein, or pending charges for any criminal offense other than a traffic ticket.

If an applicant refuses to sign the employment application and the consent to submitting to a pre-employment criminal background check and a drug test, if appropriate, the employment process will be terminated.

Discrepancies in Criminal History Background

The failure of an applicant, independent contractor/contractor's employee, or volunteer, to fully disclose his/her complete adult criminal history record as required, which includes any convictions where the applicant was tried as an adult before the age of 17, is grounds to deny or terminate employment or other relationships.

Confidentiality of Pre-Employment Criminal History Background and Drug Test Information

All information collected under these procedures shall be used for the exclusive purpose of evaluating the individual for employment or other relationship with the College District. The information shall remain confidential and shall not be released or otherwise disclosed, except to persons involved in gathering and reviewing the information, and except as required by law. Any employee who releases information or causes information to be released in violation of this procedure may be subject to disciplinary action up to and including termination.

Inaccurate or Incomplete Results

An applicant who believes his/her results from the drug test are inaccurate or incomplete has the sole responsibility of coordinating and following the procedures as indicated by the lab. The College District is not obligated to hold a position or an offer open.

Legal Reference - TACC Policy Reference Manual

DC(LEGAL) - Employment Practices
DHB(LEGAL) - Employee Standards of Conduct: Searches and Alcohol/Drug Testing