



State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF HUMAN RESOURCES

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PERSONNEL POLICY NO. 78

EFFECTIVE DATE: March 20, 2006
REVISED DATE: November 3, 2006; December 1, 2006
SUBJECT: Criminal History Checks

AUTHORIZATION: _____
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Assistant Commissioner of Management and Finance

I. POLICY:

It is the policy of the Division of Administration (DOA) to hire and promote applicants with the qualifications and backgrounds appropriate to the requirements of the position to be filled. Consequently, a criminal history check will be conducted on applicants selected for positions designated as security-sensitive.

It is also the policy of the DOA that applicants convicted of a felony (by judicial finding, or plea of guilty or nolo contendere) shall not be appointed to a security-sensitive position, unless pardoned. Should a criminal history check reveal a conviction of a misdemeanor or a felony, the applicant will be informed of the results of the investigation and given the opportunity to respond. The results of the investigation as well as the applicant's response will be reviewed by the section head with the Appointing Authority. No unconditional offer of employment shall be made until this process has been completed and the appointment has been approved by the Appointing Authority.

II. PURPOSE:

The purpose of this policy is to provide DOA management with information regarding any criminal history of the applicant, prior to an unconditional offer of employment.

III. APPLICABILITY:

This policy applies to all applicants to be appointed into positions designated as security-sensitive with the exceptions contained in this policy.

IV. DEFINITIONS:

Appointment – an unconditional offer of employment by the agency and the subsequent acceptance of such offer by the applicant. Appointment types include:

1. Permanent - probational appointments, non-competitive re-employments, lateral transfers, promotions, demotions, reassignments, position changes, and
2. Temporary - job appointments, restricted appointments, provisional appointments and details to special duty.

Conditional Offer of Employment – an offer of employment that is conditioned upon:

1. The applicant meeting certain criteria, such as passing a drug test, agreeing to direct deposit, registering with Selective Service (if male ages 18 through 25), agreeing to a criminal history check (if applicable), etc., and
2. The department verifying certain aspects of the conditional offer such as the salary and that the applicant meets the minimum qualifications, etc.

Conditional Offer Orientation – the centralized process within the DOA which occurs between the conditional offer of employment and the appointment during which the selected applicant is told of the conditions which must be met in order to receive an unconditional offer of employment such as passing a drug test, agreeing to direct deposit, agreeing to a criminal history check (when appropriate), etc.

Criminal History Check – a check of the public records conducted by the State of Louisiana of arrests and convictions.

Designee – in the statutes which create most entities, the appointing authority is generally given the authority to take actions affecting employees such as hiring, firing, disciplining, etc. Such authority may be delegated by the appointing authority to others in the organization, for the purposes of this document, called the designee. The delegation to another to take an action does not relieve the appointing authority of the responsibility for the actions taken.

Felony – any crime for which an offender may be sentenced to death or imprisonment at hard labor.

Misdemeanor – any crime other than a felony.

Security-sensitive position – a position determined by the Appointing Authority to be security-sensitive. The general guidelines for such designations are listed in Appendix A.

Unconditional Offer of Employment - an offer by an appointing authority to a qualified applicant who has met all the conditions set out in the conditional offer of employment in a classified or unclassified position.

V. PROCEDURE:

If the position to be filled is designated as security-sensitive, the position description (SF-3) should be reviewed to assure that it contains the requirement of a successful criminal history check. Any such requirement for the position should also be noted on the *Request to Recruit* form for the position. This form is located on the Office of Finance and Support Services website at: www.doa.louisiana.gov/ofss/ofss_forms.htm. When applicable, applicants should be informed during the interview process that a criminal history check is a condition of employment. Other conditions of employment should also be discussed.

Following the interview process, and after a candidate has been selected for a conditional offer of employment, the section should complete the form, *Conditional Offer of Employment* which can be found on the Office of Human Resources (OHR) website at: www.state.la.us/ohr/forms/forms1.htm. The completed form should be forwarded to the OHR. If the position is designated security-sensitive, this must be indicated on the *Conditional Offer of Employment*. **AT THIS POINT, THE SELECTED APPLICANT HAS BEEN GIVEN ONLY A CONDITIONAL OFFER OF EMPLOYMENT AND NOT AN UNCONDITIONAL OFFER OF EMPLOYMENT.**

Upon receipt of the *Conditional Offer of Employment* form, the OHR shall call the selected applicant and schedule him/her for the Conditional Offer Orientation process. In that process the applicant must provide written authorization for the criminal history check.

The signed authorization form is forwarded to Louisiana Capitol Police where the criminal history check is performed using established procedures. The information obtained from the investigation is forwarded to the Director of the OHR.

The criminal history check must be conducted after a conditional offer of employment has been made to the applicant but prior to any unconditional offer of employment.

If the applicant does not meet all of the conditions of employment, as determined by the staffs of either OFSS/EA or OHR, the staff of the OHR shall contact the applicant with instructions or to inform the applicant that his conditional offer has been withdrawn. If the applicant does satisfy all conditions of employment, the staff of OFSS/EA will notify the section that the applicant may now be given an unconditional offer of employment.

Note: If a successful criminal history check is completed on an applicant, additional investigations will not be required for that applicant on any future personnel actions.

VI. RESPONSIBILITY:

The Appointing Authority is responsible for:

Determining final designation of positions as security-sensitive, determining acceptance or rejection of an applicant with a conviction of a misdemeanor, and approving exceptions to the policy.

Section heads and their designees are responsible for:

Enforcing this policy including ensuring that appropriate criminal history checks are conducted prior to any unconditional offer of employment to a security-sensitive position.

Designating appropriate positions within the section as security-sensitive and assuring that this designation is included on the position description for that position.

Informing all job applicants of conditions which must be met in order to receive an unconditional offer of employment which can result in an appointment.

Preparing the Conditional Offer of Employment form and forwarding it to the Office of Human Resources.

Reviewing the results of criminal history checks with the Appointing Authority when required.

Giving an applicant an unconditional offer of employment only after being notified by the OFSS/EA that all conditions of employment have been met.

Requesting exceptions to the Appointing Authority.

Louisiana Capitol Police is responsible for:

Establishing standard authorization forms and procedures for investigating the criminal history of applicants.

The Office of Human Resources is responsible for:

Meeting with applicants who have received a conditional offer of employment, explaining the conditions which must be met by the applicant before an unconditional offer can be made and providing the appropriate paperwork for each condition.

Securing the applicant's signature on the appropriate paperwork and forwarding that paperwork to the appropriate destination.

Forwarding the signed authorization for the criminal history check to Louisiana Capitol Police.

Notifying the applicant that the conditional offer of employment has been withdrawn when any condition which was set out has not been met, such as a satisfactory criminal history check.

The Applicant applying for a security-sensitive position is responsible for:

Signing a written consent form authorizing an investigation of his/her criminal history records.

VII. QUESTIONS:

Questions regarding this policy should be directed to the Office of Human Resources (OHR).

VIII. EXCEPTIONS:

Requests for exceptions to this policy must be submitted in writing to the appointing authority with specific and compelling justification.

IX. VIOLATIONS:

Employees found to have violated this policy may be subject to disciplinary action, up to and including termination.

Appendix A

Security-sensitive position - A position determined by the Appointing Authority to contain duties of such nature that the compelling State interest to protect itself from liability outweighs the employee's privacy interests. A list of such positions within the Division of Administration (DOA) is attached hereto and is made a part hereof. The list was determined with consideration of statutory law, jurisprudence, the practices of this agency and the following examples of security-sensitive positions.

1. Positions that may have systems administrative rights and responsibilities for statewide information systems.
2. Positions with duties for which the minimum requirements include a Commercial Drivers License or FAA mechanic certificate.
3. Positions with duties that are required or are authorized to carry a firearm.
4. Positions with duties that allow access to controlled substances (drugs).
5. Positions with duties that are required or are authorized to inspect, handle, or transport hazardous material as defined in R.S. 32:1502(5).
6. Positions with duties that are required to operate or maintain power plant equipment, or supervise employees who operate or maintain power plant equipment.
7. Positions with duties that require the incumbent to have or implement unrestricted access to state buildings and offices outside of normal business hours.

SPECIFIC POSITIONS:

All employees of the following DOA sections:

Office of Computing Services

Office of Information Services

Office of Telecommunications Management

Office of State Buildings – Includes only operations and craft personnel and any administrative positions with OSB with authority to have or implement unrestricted access to state buildings and offices outside of normal business hours.

Office of State Uniform Payroll, effective November 3, 2006

Office of Risk Management, effective December 1, 2006

Office of State Inspector General, effective December 1, 2006