



BOBBY JINDAL
GOVERNOR

PAUL W. RAINWATER
COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration
Office of Human Resources

PERSONNEL POLICY NO. 78

EFFECTIVE DATE: March 20, 2006

REVISED DATE: November 3, 2006; December 1, 2006; February 22, 2007;
March 21, 2007; July 23, 2007; August 16, 2007; July 13, 2009;
January 4, 2010; March 18, 2010; April 7, 2011

SUBJECT: Criminal History Checks

AUTHORIZATION:



Steven Procopio, Appointing Authority

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 classified or unclassified position to be filled. Individuals employed by the DOA may occupy security-sensitive positions, handle confidential or sensitive information, collect checks or cash, and/or could influence the awarding of bids or contracts. Therefore, a criminal history check will be conducted on all new hires as well as employees changing positions including promotions, demotions, details, reassignments, and transfers, with the following exceptions:

- A current employee moving from a detail-to-special-duty back to his home position.
- A current employee moving back to his home position after being on leave from his classified position.
- A current employee laterally transferring to a position within his same section where there is no job title or pay level change involved.

It is also the policy of the DOA that applicants convicted of a felony (by judicial finding, or plea of guilty of nolo contendere) may not be appointed to any position, unless pardoned.

The results of the criminal history check will be reviewed by the Office of Human Resources with the section head, and with the Appointing Authority as needed. 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 employees of the Division of Administration in all sections, both general and ancillary appropriations.

IV. DEFINITIONS:

Appointment – an unconditional offer of employment by the agency in the unclassified or classified service and the subsequent acceptance of such offer by the applicant. Classified 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, 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.

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 contain duties of such nature that the compelling State interest to protect itself from liability outweighs the employee's privacy interest.

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:**

Each requisition to fill a vacancy should note that a criminal history check is a condition of employment. Applicants should be informed during the interview process that a criminal history check is a condition of employment and 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: <http://www.doa.louisiana.gov/ohr/forms/forms1.htm>. The completed form should be forwarded to the OHR. The criminal history check requirement 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 for the Conditional Offer Orientation process. The applicant must provide written authorization for the criminal history check during this orientation.

The signed authorization form will be 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 OHR, the staff of 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 OHR will notify the section that the applicant may now be given an unconditional offer of employment.

VI. RESPONSIBILITY:

Deputy/Assistant Commissioners and equivalent are responsible for:

Determining acceptance or rejection of an applicant and requesting exceptions to the policy.

Section Heads are responsible for:

Enforcing this policy including ensuring that criminal history checks are conducted prior to any unconditional offer of employment.

Ensuring that the criminal history check requirement is indicated on position descriptions.

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 and OHR staff when required.

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

Requesting exceptions from the Appointing Authority.

Louisiana Capitol Police is responsible for:

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

Applicants applying for positions are responsible for:

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

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.

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 an unsatisfactory criminal history check.

VII. QUESTIONS:

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

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 and the applicable effective dates:

<u>SECTION</u>	<u>EFFECTIVE DATE</u>
Office of Computing Services	March 20, 2006
Office of Information Services	March 20, 2006
Office of Telecommunications Management	March 20, 2006
Office of State Uniform Payroll	November 3, 2006
Office of Risk Management	December 1, 2006
Office of State Inspector General	December 1, 2006
DOA Auditors within the Commissioner's Office	February 22, 2007
Office of State Buildings	March 21, 2007 (revised)
Office of Information Technology	July 23, 2007
Office of Human Resources	July 13, 2009
Disaster Recovery Unit (DRU) & Louisiana Recovery Authority (LRA) within the Office of Community Development	January 4, 2010