

5122-7-21

**Background check on applicants.**

- (A) The purpose of this rule is to establish policy and procedures for the conducting of background checks on prospective employees of the Ohio department of mental health and addiction services as mandated in section ~~5119.072~~5119.181 of the Revised Code. The purpose of the background checks will be to determine the fitness of applicants to serve in the positions sought whether in the classified or unclassified service. This rule also outlines the criteria to be applied in evaluating applicants based on information obtained from background checks.
- (B) This rule applies to all ~~behavioral healthcare organizations (BHOs)~~regional psychiatric hospitals (RPHs) or community support networks (CSNs) of the department and the central office, and supersedes any other requirement for background checks in administrative rules promulgated by the department.
- (C) The following definitions shall apply to this rule in addition to or in place of those appearing in rule 5122-1-01 of the Administrative Code.
- (1) "Applicant" means any person who is under final consideration for appointment to a position in the classified or unclassified service of the department of mental health.
- (D) The following paragraph pertains to crimes bearing a direct and substantial relationship to the position being filled.
- (1) In accordance with section ~~5119.072~~5119.181 of the Revised Code, no appointing authority shall appoint a person to fill a position in the classified or unclassified service if the person has been convicted or has pleaded guilty to a violation of the following:
- (a) Any felony contained in the Revised Code, if the felony bears a direct and substantial relationship to the position being filled; or
- (b) Any crime contained in the Revised Code constituting a misdemeanor of the first degree and a felony on subsequent offenses if the crime bears a direct and substantial relationship to the position being filled; or
- (c) An existing or former law of this state, any other state or the United States if the law violated is substantially equivalent of any of the offenses described in paragraph (D)(1) or (D)(2) of this rule.
- (2) The appointing authority shall determine what constitutes a direct and substantial relationship to the position being filled based on the following

factors:

- (a) Nature and gravity of the offense. For example, any conviction for a crime during which force was used or implied against another person, such as assault or armed robbery, would have a direct and substantial relationship to any position involving direct client contact;
  - (b) The length of time since the conviction. For example, convictions occurring more than ten years prior to the application carry less weight than more recent convictions; and
  - (c) The job duties of the position in question.
- (3) Each applicant must be assessed on an individual basis based on the factors listed above.

(E) Procedure prior to hiring

- (1) ~~Each applicant shall be informed at the initial interview that a background check will be made. The applicant will be requested to sign waiver(s) using Ohio department of mental health forms "verification of prior employment form DMH-PER-029" and "request to law enforcement agency form DMH-PER-030" for the release of information from former employers and law enforcement agencies in the community where the applicant resides or formerly resided. Refusal to sign such waiver(s) means that the application will not be further considered.~~ At the time of a conditional offer, the applicant shall be informed that a background check will be conducted.
- (2) The following background checks are to be conducted on applicants prior to employment:
  - (a) For any position involving direct client contact, all previous employers who employed applicant in a similar position shall be contacted;
  - (b) The applicant's current and immediate prior ~~employer(s)~~employers shall be contacted as to work habits and ~~reason(s)~~reasons for leaving the employment;
  - (c) A request for information regarding prior criminal convictions shall be submitted to the law enforcement agency which has jurisdiction in the applicant's current or last area of residence;

- (d) Personal references submitted by the applicant should be contacted as to their knowledge of the applicant; and
- (e) An applicant shall be fingerprinted via ~~fingerprint card~~, electronic fingerprinting, ~~or other method approved by~~ and shall be transmitted to the bureau of criminal identification and investigation (BCI&I) and the federal bureau of investigation (FBI). ~~Fingerprint cards shall be forwarded to the "Bureau of Criminal Identification and Investigation (BCI&I), P.O. Box 365, London, Ohio 43140." Fingerprints obtained by electronic fingerprinting shall be transmitted to BCI&I via methods approved by BCI&I.~~

The BCI&I's or FBI's response as to any felony convictions or pending criminal charges shall be compared to the information on the application signed by the applicant.

- (3) Any falsification on the application which is disclosed by the background checks shall cause the applicant to be removed from further consideration for employment or, if already employed, shall cause the employee to be removed from employment.
- (F) If, upon review by the appointing authority or his/her/their designee, the background check discloses information that the applicant has displayed character traits which would be detrimental to successful performance in the position sought, or that the applicant has been dismissed for good cause from any public/ or private service for a reason bearing a direct relationship to the position being filled, or that the applicant has been convicted of a crime bearing a direct and substantial relationship to the position, such applicant shall be precluded from further employment consideration.

~~(G) If the applicant's name appears on a civil service certification list for the position sought and the background check discloses information as enumerated in paragraph (F) of this rule, the managing officer shall submit a request to the director of the department of administrative services that the applicant's name be removed from such list(s) in accordance with section 124.25 of the Revised Code and rule 123:1-11-04 of the Administrative Code.~~

~~(H)(G)~~ The BHO/department applicable EEO officer shall be kept aware of specific reasons for hiring, or not hiring, an applicant under the provisions of this rule. ~~The EEO officer shall maintain files as part of the "applicant flow data form DMH-PER-005."~~

~~(H)~~ (H) All information obtained in the background checks shall be considered

confidential. It is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, except the applicant, the appointing authority or ~~his/her~~their designee, or any hearing officer/ or court involved in a case denying employment.

~~(D)~~(I) Notwithstanding the provisions of this rule, the Ohio department of mental health and addiction services shall conduct a separate criminal background investigation on all applicants for unclassified positions as described by section 124.11 of the Revised Code. All offers of employment to prospective (new) employees shall be made contingent on the successful completion of the background check, including a review of state tax issues.