



Pharr Literacy Project, Inc. Criminal Background Checks

- A. Purpose** - The purpose of this policy is to provide for the conduct of criminal background checks on applicants positions at the Pharr Literacy Project, Inc. (PLP) in accordance with state law.
- B. Authority** – Statutory authority for this policy is provided by Texas Government Code §411.135.
- C. Policy** - To promote safety and the security of staff, students and volunteers consistent with the requirements of the law and prudent financial and programmatic practices, it is the policy of PLP to gather:
1. criminal history record information on applicants who are under final consideration, following normal screening and selection processes, for a position that is designated as a security sensitive position;
 2. criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from a non-security sensitive position to a position designated as a security-sensitive position; and
 3. criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from one security sensitive position to another security sensitive position and on whom the institution did not previously obtain either criminal history record information or criminal conviction record information. Criminal conviction record information will not be obtained for:
 - a. position reclassifications that result in a title change with no change in current responsibilities;
 - b. involuntary transfers or reclassifications.
- D. Definitions**
1. “Security sensitive positions” shall be restricted to those positions described in *Texas Education Code* §51.215(c) and *Texas Government Code* §411.094(a)(2), which may be amended from time to time. The list at a minimum will include areas/positions as follows:
 - a. all senior level administrator positions;
 - b. those that have responsibility for providing patient care or for providing child-care in a child-care facility;
 - c. those that have responsibility for the care, safety, or security of humans or the safety or security of personal or PLP property;
 - d. those that have significant inventory control responsibilities, including receipt and release of inventory;
 - e. those that have direct access to, or responsibility for, cash, checks, PLP property, disbursements, or receipts;
 - f. those that have responsibility for execution or approval of financial transactions;
 - g. those that have direct access to, or responsibility for, classified information pertaining to the national defense;
 - h. those that have unsupervised access to PLP, employee, or student property in the course of normal job duties;



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- i. those that have responsibility for the preparation, maintenance, or approval of the financial, payroll, personnel, or purchasing systems; and,
 - j. those that have direct access to sensitive data, including data protected by Federal or State law, medical records, personnel records, other personal data, or confidential criminal justice information, or to critical data processing systems.
2. “Applicant” is an individual who applies for a position within PLP, whether the individual is an outside candidate or a current employee of the PLP.
 3. “Position” means both full-time and part-time positions, whether the position is filled or to be filled by a regular or a temporary worker, but not including a position filled by a temporary worker provided by a temporary employment agency, since the employment agency should be expected to conduct and be held responsible for conducting the criminal background check.
 4. “Controlled substance” has the meaning assigned in *Texas Health & Safety Code* §481.002.
 5. “Select agent” has the meaning assigned in 18 U.S.C. §175b.
 6. “Criminal conviction record information” means public information maintained by the Department of Public Safety, as provided in *Texas Government Code* §411.135.
 7. “Criminal history record information” means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, as more fully described in *Texas Government Code* §411.082.

E. Procedures –

1. All positions within PLP designated as security sensitive.
2. PLP shall identify in the position job description and advertisement that it is a security-sensitive position by including the following statement in the job advertisement: “This position is security-sensitive and subject to *Texas Education Code* §51.215, which authorizes the employer to obtain criminal history record information;” and including the following statement in the job description: “This position is security-sensitive and thereby subject to the provisions of *Texas Education Code* §51.215.”
3. The Sites Coordinator or his/her designee is responsible for conducting the criminal background investigation.
4. PLP must receive a signed authorization form before the background information is requested. The authorization form includes the notice required by Texas Government Code 559.003, as it may be amended from time to time. The authorization form will be included as part of the PLP Application for Employment packet and must be signed by the applicant and submitted along with the Application for Employment. Refusal to sign the authorization form will eliminate the applicant from consideration for employment. Following normal screening and selection processes for applicants and for current



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employees who are under consideration for a transfer, promotion, or reclassification as described in Section C above for positions that are designated as security sensitive, the Personnel Committee will decide who is the final candidate for the job offer. The Chair of the Personnel Committee will notify the Sites Coordinator of the name of the final candidate.

5. The Sites Coordinator or his/her designee will conduct the background investigation on the final candidate before the hiring official makes the employment decision. If circumstances require that an offer be made before the completion of an investigation, the offer must be in writing and state that the offer is contingent on the completion of a satisfactory criminal background investigation.
 6. The Personnel Committee shall be responsible for making the decision to hire, promote, transfer, or reclassify an employee to a security sensitive position.
 7. Criminal history record information obtained by PLP may be used only for the purpose of evaluating applicants for employment in security sensitive positions and shall in no way be used to discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.
 8. Criminal history record information, including conviction information contained therein, will be regarded as confidential as required by law and will not be made a part of the applicant's file or the employee's personnel file or communicated to any unauthorized person. *Under Texas Government Code §411.085*, the unauthorized release of criminal history record information is a criminal offense, and consequently, the institution should seek legal advice with respect to any requested release of such information. After the expiration of the probationary term of the individual's employment, the Sites Coordinator or his/her designee shall destroy all criminal history record information that was obtained about the individual. If the position is one that does not have a probationary period then the Sites Coordinator shall destroy the information 180 days after the institution obtains it.
 9. The criminal background check shall include the jurisdictions in which the individual has resided and/or worked within the seven years preceding the date of employment at PLP.
- F. Review** - This policy shall be reviewed every two years or as necessary by the Board of Directors.