

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 06/01/2015	NUMBER 02.06.111
SUBJECT EMPLOYMENT SCREENING		SUPERSEDES 02.06.111 (10/11/13)	
		AUTHORITY MCL 37.1101 <i>et seq.</i> , 37.2101 <i>et seq.</i> , 791.203, 791.501 <i>et seq.</i> , 791.205a; Civil Service Commission Rules 1-6, 1-7, 1-8 and 2-7, 42 USC 1997, Prison Rape Elimination Act (PREA) of 2003, CFR Title 28, part 115	
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**POLICY STATEMENT:**

The Department shall screen applicants for employment, to determine suitability for employment. Current employees also shall be screened if physical or mental fitness for duty is questioned. Hiring decisions shall be based on merit, efficiency, fitness, and job specifications.

**RELATED POLICIES:**

- 02.06.100 Equal Employment Opportunity
- 02.06.101 Employees and Job Applicants with Disabilities

**POLICY:**

GENERAL INFORMATION

- A. An applicant for employment shall not be discriminated against in any aspect of the employment process based on the applicant's religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.
- B. All hiring shall be done in accordance with Civil Service Commission rules and regulations. The Deputy Director of Budget and Operations Administration (BOA) or designee shall ensure that standardized selection guidelines are maintained in recruiting and hiring employees for all positions other than that of a corrections officer. Separate guidelines shall be maintained for hiring new corrections officers. The BOA Deputy Director shall ensure that the guidelines are made available to all Human Resource (HR) offices and to other staff involved in the hiring process, as appropriate.
- C. This policy applies to all applicants for employment. This includes transfers and promotions of current employees and employees on layoff/recall status with the Department, unless otherwise indicated. The appropriate HR office shall oversee all employment screening required by this policy.
- D. The Department shall not knowingly hire any new employee, promote any existing employee or enlist the services of any contractor who has contact with prisoners and has:
  - 1. engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997);
  - 2. been convicted of engaging in, attempting to engage in or conspiracy to engage in sexual activity facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - 3. been civilly or administratively adjudicated to have engaged in the activity described in number 2 above.
- E. Incidents of sexual harassment shall be considered in determining whether to hire anyone, enlist the services of any contractor or promote anyone who may have contact with a prisoner. The Department shall ask all applicants, including existing employees applying for positions within the Department, who may have direct

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contact with a prisoner in the position for which they are applying, about previous misconduct as described in this paragraph and in Paragraph D, either in written applications and/or during the interview process.

- F. Before hiring new employees who may have contact with prisoners, the Department shall make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
- G. All offers of employment are contingent upon the applicant meeting all pre-employment screening requirements set forth in this policy. Whenever an applicant fails to meet any of these requirements, the offer of employment shall be rescinded.
- H. An offer of employment shall not be made unless approved in advance by the appropriate HR office. An offer of employment also shall not be made to an applicant who was formerly employed by the Department and dismissed from employment for any reason, who resigned while under investigation or while discipline was pending for alleged misconduct, or who accepted a waived rights leave of absence, without the approval of the BOA Deputy Director or designee and the appropriate Executive Policy Team (EPT) member. Approval shall not be granted if the departure was related to the applicant testing positive or refusing to be tested for a controlled substance or alcohol as authorized by Civil Service Commission rules, interfering with the test procedure, or tampering with the test sample. The Director may identify types of alleged misconduct for which approval shall not be granted (e.g., sexual misconduct, sexual harassment, or overfamiliarity).
- I. Generally, employees shall not be assigned to the direct supervision of an immediate family member (e.g., spouse, child, stepchild, grandchild, foster child, sibling, parent, parent-in-law, grandparent, uncle, aunt, nephew, niece, or first-cousin). Accordingly, prior to placement in a position, the appropriate HR office shall determine if the prospective employee is an immediate family member of an employee at the work location and make appropriate reassignments, subject to operational needs.
- J. Falsification or omissions of any information given by an applicant for employment during employment screening may result in removal from employment consideration and, if discovered after hire, may result in termination of employment.
- K. This policy does not apply to contractual employees. However, LEIN checks shall be performed on contractual employees who may have contact with a prisoner, parolee, or probationer as set forth in Paragraph D-E. This includes persons under contract with the Department and employees of a business or governmental agency under contract with the Department.
- L. Exclusively represented employees shall be governed by their collective bargaining unit agreement where in conflict with this policy.
- M. Student intern positions shall not be established or used to replace other positions. Internships are provided for any term as approved by the Director or designee.

#### STUDENT ASSISTANT/INTERN POSITIONS

- N. Students interns are not State Employees but may apply for State positions. Appropriate supervisory staff may work with a vocational school, college, university, or other post-secondary educational institution to offer student internships with the Department for academic credit. Student internships may be offered to unpaid student interns. The criteria for successful completion of, and the amount of credit awarded for, all student internships shall be determined by the educational institution the student is attending. The student intern may be LEIN checked, fingerprinted, and drug tested at the student's expense and may be required to complete an internship agreement.
- O. A relative (i.e., spouse, child, stepchild, grandchild, foster child, sibling, uncle, aunt, niece, nephew, or first-cousin) of a Department employee shall be offered a student assistant or student intern position only with approval from the appropriate EPT member after consultation with the Director or designee.

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## EDUCATIONAL CREDENTIAL CHECK

- P. Prior to interviewing an applicant, the credentials of the applicant shall be verified to determine if s/he meets the minimum educational requirements for the position. This generally does not apply to an applicant who is currently employed by or on layoff/recall status with the Department unless determined necessary by the HR Officer. If a professional license is required, that license shall similarly be verified. Student assistants and interns are required to submit updated enrollment information as necessary. This includes whenever there is a change in the student's degree, program, enrollment status, or educational institution and upon completion of educational degree/program. Appropriate HR office staff shall verify at least annually the continued eligibility of those in student assistant positions.

## REFERENCE CHECKS

- Q. Reference checks are not required for unpaid student intern positions. Reference checks are required for all applicants for a corrections officer position prior to making an offer of employment and on at least the three top-ranked applicants for all other positions, based on interview rating, prior to making an offer of employment. Information shall be requested from at least three professional references (e.g., supervisor) prior to making any offer of employment; personal references may be substituted for professional references as approved by the appropriate HR Officer or designee. For current and prior Department employees, information also shall be requested from the appropriate HR office. Employers shall be asked to verify employment and provide information regarding the applicant's work performance including information regarding any details available in accordance with paragraphs D-E.

## LEIN CHECKS

- R. A criminal history check must be processed through LEIN before hiring a new departmental employee, a contractor and contractor's employees. In accordance with PREA Guidelines, once every five years criminal history checks shall also be processed through LEIN for all employees, including contractors and contractor's employees, who have contact with prisoners or parole violators at CFA Correctional Facilities and at the Lake County Residential Reentry Facility (LCRRP). This does not include employees, contractors and contractor's employees who have incidental contact with prisoners or parole violators (e.g., contractor filling a vending machine in the Administration Building). However, this does not preclude the MDOC from conducting a LEIN check at any time within the five year period, if determined necessary. The five year criminal history checks shall be completed during the month of June. The criminal history checks shall be documented and include a review for personal protection orders and domestic violence offenses. Any information produced from the criminal history check, which has not been previously reported or investigated, shall be referred by the reviewing staff for investigation. Criminal history checks shall be completed by facility Records Office staff for CFA facility employees and by Central Office Human Resource staff for MDOC employees who work at LCRRP. Grandview Plaza and FOA employees who may have contact with prisoners as part of their job responsibilities shall have a criminal history check processed through LEIN as determined by each Administration.
- S. A criminal history check, a check for outstanding warrants, and a driving record check for misdemeanor driving/traffic offenses shall be run through LEIN on all applicants for a corrections officer position and on at least the selected candidate for any other position, based on interview rating, background, and reference checks, prior to making an offer of employment. This does not apply to applicants who are currently employed by the Department. The checks shall be conducted, at a minimum, for the United States, and as determined by the appropriate HR Officer, in Canada. If the disposition of a charge is not indicated, the applicant shall be required to provide appropriate documentation to verify the disposition. All outstanding warrants must be disposed of prior to an offer of employment being made.
- T. An applicant who is not currently employed by the Department who has the following criminal history shall not be hired for any position within the Department:
1. A felony conviction or pending felony charge.
  2. A misdemeanor conviction for a violation of the Controlled Substance Act (MCL 333.7101, *et seq.*),

Fourth Degree Criminal Sexual Conduct (MCL 750.520e), or a comparable statute or law in any jurisdiction).

3. While on a term of probation for the following nonpublic offenses:

Drug Court Cases	MCL 600.1076(1)
Parental Kidnapping	MCL 750.350a(6)
Controlled Substance(s)	MCL 333.7411(3)
Domestic Violence	MCL 769.4a(7)

4. Violation of PREA (Paragraph D, 1-3).

- U. A person who is not currently employed by the Department who has a misdemeanor conviction for anything other than a violation of the Controlled Substance Act or for Fourth Degree Criminal Sexual Conduct is not eligible for employment until one year after satisfactory completion of any sentence imposed, including probation. The one year period may be waived with approval of the BOA Deputy Director or designee and appropriate EPT member.
- V. Any applicant who has been convicted of a misdemeanor crime of domestic violence shall not be placed into a position which requires the use or possession of a firearm or ammunition. This does not apply if the conviction has been expunged or set aside, or if the person has received a pardon. A "misdemeanor crime of domestic violence" is defined as any offense involving the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former domestic partner, spouse, parent, or guardian of the victim.
- W. If a position requires a valid operator license, a driving record check also shall be run through LEIN on at least the selected candidate for the position to verify possession of a currently valid non-restricted license prior to making an offer of employment. The driving record also shall be reviewed to determine if there are any driving/traffic offenses and the number of points on the applicant's driving record. This information may be used as a determining factor when selecting candidates.
- X. An applicant shall be informed in writing if s/he is ineligible for employment pursuant to this section. Upon request, the applicant shall be permitted to review the information that was relied upon to determine ineligibility. If the applicant disputes the accuracy of the information relied upon, s/he shall be given two weeks to contact the source of the information in order to correct the alleged inaccuracy. The applicant shall be considered for the position if the information relied upon is found to be inaccurate and the applicant is otherwise eligible for employment based on the corrected information.
- Y. To verify an applicant's identity and ensure that the required LEIN checks have been performed on the correct individual, all new employees are required to be fingerprinted. This is not required for an applicant currently employed by, or on layoff/recall status with, the Department. The selected candidate shall be advised of this requirement at the time the offer of employment is made. All new corrections officers shall be fingerprinted during the first phase of New Employee Training. All other new employees shall be fingerprinted no later than their first day of employment.

#### PHYSICAL FITNESS

- Z. All applicants for a corrections officer or corrections medical aide position are required to pass a Department approved physical fitness test prior to an offer of employment being made. The test shall be conducted in accordance with OP 02.06.111 "Physical Testing Standards for Corrections Officers and Corrections Medical Aides and Non-Career Corrections Officers."

#### MEDICAL SCREENING

- AA. All applicants shall be notified of the essential job functions of the positions for which they have applied. Pursuant to PD 02.06.101 "Employees and Job Applicants with Disabilities," staff shall not inquire regarding an applicant's medical condition, disabilities, or the need for reasonable accommodation. Such inquiries shall be made only after a conditional offer of employment is made and, for medical conditions, as part of the pre-employment

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physical exam. Concerns regarding the selected candidate's physical ability to perform the essential job functions of the position shall be discussed with the Administrator of the Equal Employment Opportunity Office or designee.

BB. In conjunction with a conditional offer of employment and prior to placement in the position, the selected candidate shall be required to undergo the following medical screening:

1. A physical examination conducted by a physician under contract with the Department, as identified by the BOA Deputy Director or designee. This does not apply to an applicant who is currently employed by, or on layoff/recall status with, the Department unless the applicant is applying for a position which has regular prisoner contact and his/her most recent position did not have regular prisoner contact.
2. Tuberculosis screening as set forth in PD 02.04.110 "Control of Tuberculosis in Employees."
3. If applicable, a respiratory examination to determine the ability to wear required respiratory protection devices.

CC. All medical screenings required by the Department shall be arranged and paid for by the Department.

#### DRUG TESTING

DD. In accordance with Civil Service Commission rules, the selected candidate for a position shall be tested for drugs in conjunction with a conditional offer of employment prior to placement in the position. However, if the candidate is currently employed by, or on layoff/recall status with, the State of Michigan, s/he shall be tested only if the position is test designated and the employee's current position is not test designated or if the position is subject to Department of Transportation (DOT) testing and the employee's current position is not subject to DOT testing. Testing of current employees shall be performed in accordance with the applicable collective bargaining unit agreement.

EE. All drug testing required by the Department shall be arranged and paid for by the Department, unless otherwise noted in this policy. The testing shall be performed under contract with the State of Michigan. The Federal Drug Testing Custody and Control Form shall be used to document testing for a position which requires a Commercial Driving License (CDL). The Non-Regulated 5 Part Testing Custody and Control Form shall be used to document all other required testing.

FF. An applicant for employment who is required to be tested for a drugs shall not be hired and shall be ineligible for future employment with the Department if s/he refuses to be tested or tests positive. An applicant for a "test designated position" who is currently employed by, or on layoff/recall status with, the State of Michigan who refuses to be tested or tests positive for drugs and alcohol shall be terminated from employment. A test result will not be reported as positive if it is determined that medication identified by the applicant could have reasonably caused the positive result. This does not apply to positive tests for marijuana (THC). An applicant who is required to be tested also shall not be hired for future employment with the Department if s/he is found to have interfered with the test procedure or tampered with the test sample. The Civil Service Commission shall be notified whenever an applicant is ineligible for future employment with the Department pursuant to this paragraph.

GG. Information directly related to a drugs and alcohol test result, including the test result itself, shall be retained in the Drug and Alcohol Testing Unit, BOA. The information shall not be disclosed without the consent of the person being tested except as necessary to comply with this policy, Civil Service Commission rules, or applicable collective bargaining unit agreement.

#### CURRENT EMPLOYEES' FITNESS FOR DUTY

HH. Medical screenings and evaluations may be performed when an employee's fitness for duty becomes questionable, after consultation with the BOA Deputy Director or designee. These screenings and evaluations may include physical or psychological/psychiatric examinations or other appropriate medical screenings.

II. An employee who has incurred an injury or a temporary medical disability may be required to submit medical

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certification from an appropriate medical practitioner showing that the employee is able to perform all essential job functions prior to being permitted to return to work. Employees on a medical leave of absence shall be required to provide such certification as set forth in PD 02.02.102 "Leave of Absence." The employee shall submit the required medical certification to the Central Office Disability Unit prior to returning to work.

- JJ. Employees are subject to testing for the use of a controlled substance or alcohol in accordance with Civil Service Commission rules and applicable collective bargaining unit agreements.

#### PROCEDURES

- KK. The BOA Deputy Director shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive. This shall be completed within 60 calendar days after the effective date of the policy directive.

#### AUDIT ELEMENTS

- LL. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures."

APPROVED: DHH 05/04/15