# Policy: HR – Criminal Background Screening

Purpose: To clarify when and how [Company Name] will conduct criminal background screening on prospective and/or current employees and to define the rights of prospective and/or current employees, criminal background screenings are conducted.

## Policy:

[Company Name] will conduct criminal background screening on all prospective employees after a contingent offer of employment has been made and annually thereafter. Criminal Background screenings will occur annually thereafter.

* **Conducting Criminal Background Screening**  
  Criminal background screening will only be conducted as authorized by the candidate/employee and [State law] and only after a Criminal Background Acknowledgement form has been completed. With the exception of screening for the rental or leasing of housing, if a new Criminal background screening is to be made on a subject within a year of his/her signing of the Criminal Background Acknowledgement form, the subject shall be given 72 hours’ notice that a new criminal background screening will be conducted.
* **Access to Criminal Background**  
  All criminal background information obtained from the screening vendor is confidential, and access to the information must be limited to those individuals who have a “need to know.” This may include, but not be limited to, hiring managers, staff submitting the criminal background requests, and staff charged with processing job applications. [Company Name] must maintain and keep a current list of each individual authorized to have access to, or view, criminal background Information.
* **Criminal Background Training**  
  An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access criminal background information at [Company Name] will review, and will be thoroughly familiar with, the educational and relevant training materials regarding criminal background laws and regulations made available by the screening vendor.  
    
  Additionally, if [Company Name] is an agency required by [State statute] to maintain a criminal background policy, all personnel authorized to conduct criminal history background screening and/or to review criminal background information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding criminal background laws and regulations made available by the screening vendor.
* **Use of Criminal History in Background Screening**  
  Criminal background used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.   
    
  Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background screening will be made consistent with this policy and any applicable law or regulations.
* **Verifying Subject’s Identity**If a criminal record is received from the screening vendor, the information is to be closely compared with the information on the Criminal Background Acknowledgement form [Company Specific] and any other identifying information provided by the applicant to ensure the record belongs to the applicant.   
    
  If the information in the criminal background record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the criminal background record and documents provided by the applicant.
* **Inquiring About Criminal History**In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the screening vendor or from any other source, prior to being questioned about his or her criminal history. The source or sources of the criminal history record are also to be disclosed to the subject.
* **Determining Suitability**  
  If a determination for employment is made, based on the information as provided in this policy, that the criminal record belongs to the subject and the subject does not dispute the record’s accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:
  + Relevance of the record to the position sought.
  + The nature of the work to be performed.
  + Time since the conviction.
  + Age of the candidate at the time of the offense.
  + Seriousness and specific circumstances of the offense.
  + The number of offenses.
  + Whether the applicant has pending charges.
  + Any relevant evidence of rehabilitation or lack thereof; and
  + Any other relevant information, including information submitted by the candidate or requested by the organization.
  + The applicant is to be notified of the decision and the basis for it in a timely manner.
* **Adverse Decisions Based on Criminal Background**  
  If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's criminal background policy and a copy of the criminal history. The source or sources of the criminal history will also be revealed. The subject will then be given an opportunity to dispute the accuracy of the criminal background record.
* **Secondary Dissemination Logs**  
  All criminal background records obtained from the background screening vendor are confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of criminal background information outside this organization, including dissemination at the request of the subject.

Effective Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Last Reviewed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_