



EL PASO COMMUNITY COLLEGE PROCEDURE

For information, contact Institutional
Effectiveness: (915) 831-6740

DHA-1 Employee Background Screening, and/or Testing

APPROVED: May 17, 2021 **REVISED:**
Year of last review: 2021
AUTHORIZING BOARD POLICY: DHA

Classification: Institutional

Responsible Vice President or Associate Vice President: Vice President of Financial and Administrative Operations

Designated Contact: Executive Director of Human Resources

OBJECTIVE: To establish the requirement and a centralized process for administering background screening and/or testing as a condition of employment for applicants and employees in designated positions, including a criminal background check, screening, and/or testing.

PURPOSE: The purpose of this procedure is to provide a safe work and educational environment that will protect the welfare and safety of students, employees, and the institutional resources of the College.

- I. Applicants and Employees requiring background screening and/or testing as a condition of employment:
 - A. All applicants for Employment (pre-employment);
 - B. All New Employees:
 - Full-time employees;
 - Part-time and Work-Study employees; and
 - Volunteers
 - C. Rehires after a separation (break) from employment or work assignment of three months or more:
 - Full-time employees; and
 - Part-time, Work-Study; and
 - Volunteers
 - D. Other examples that could trigger screening and/or testing include, but are not limited to, the following:
 - Transfers and/or Promotions (voluntarily or involuntarily) to a security-sensitive position;
 - Drivers of College vehicles;
 - Cashiers;
 - Peace Officers;
 - Other positions requiring a different or increased level of screening or testing
- II. Background, Screening, and Testing Options
 - A. Each position will be identified for the type of screening and/or testing that will be required of the applicant or employee. The types of screening and/or testing that could be required include, but are not limited to, the following:
 - Criminal History;
 - Drug Testing;
 - Employment verification;
 - Education verification;
 - Verification of license or certification;
 - Review of Department of Motor Vehicle (DMV) records;
 - Financial/Credit Report

- B. Drug testing will be conducted, as required, for all applicants or employees working in allied health clinical settings as required by the clinical sites, and for other applicants and employees as required by law, regulation, agreement, or as otherwise determined to be in the best interest of the College.

Applicants and employees may request a retest of the original sample provided for testing within five working days after notification of a positive test result. This retest is at the expense of the applicant or employee, unless the original test result is called into question by the retest.

- C. Verification of license, certificate, or degree will be made whenever the position requires the license, certification or degree.
- D. A review of DMV records will be made at the beginning of each fiscal year for employees who drive a College vehicle.
- E. A Financial/Credit Report in accordance with the Fair Credit Reporting Act (FCRA) will be required of designated positions.

III. The Human Resources Department will be responsible for management of the background screening and testing program for College employees, including overseeing the criminal history review process, confidentially reporting the results to appropriate hiring officials, and confidentially retaining the findings of all processes. The following is a summary of the processes Human Resources may perform, depending on the circumstances.

- A. Prior to advertising a vacant position, Human Resources will identify the extent of the screening and/or testing required of the position, and, in conjunction with the appropriate administrators, will determine which screening and/or testing process(es) will be conducted.
- B. Advertisement for a vacant position will contain notification to applicants that, prior to hiring, the final candidate must successfully pass a pre-employment screening and/or testing process appropriate for the position as a condition of employment.
- C. Candidates for a vacant position must initiate the online processing to authorize and initiate the required screening and/or testing to be conducted, in accordance with the published instructions.
- D. If an applicant's or employee's screening or test result is flagged, meaning that the screening or testing was not fully cleared for hiring, the hiring administrator(s), in conjunction with the Executive Director of Human Resources and/or the Associate Director Employee Relations will determine the applicant's eligibility for employment utilizing the Adjudication Guidelines found in this procedure. The Chief of Police, appropriate administrators, screening and/or testing vendor(s) (and/or designees of any of these) and others may be consulted in this review, as appropriate. The determination of employment eligibility will be based on a number of factors, including, but not limited to, the following considerations:
- Legal requirements, including compliance with the Fair Credit Reporting Act (FCRA);
 - Critical function(s) of the position;
 - Relevancy to position's responsibilities and essential functions;
 - Date of offense, type of offense, and conviction or resolution (including deferred adjudication);
 - Other factors that are determined to affect or potentially affect the applicant's or employee's effectiveness in the position
- E. The vendor(s) conducting the screening and/or testing will notify the Human Resources Department and the applicant or employee of the results of the screening and/or testing conducted, in accordance with applicable law. The applicant or employee who is ineligible for employment, promotion or transfer based on screening and/or testing, and who is in a position that is entitled to FCRA protection, will be provided an opportunity to explain the findings and will be provided with a copy of the report and a letter explaining the reason(s) for the determination of ineligibility for the employment appointment. All requirements of the FCRA will be followed, as applicable. For example, under the FCRA, before any adverse action is taken, in whole or in part, on the basis of information in a consumer report or investigative consumer report, as defined by law, the employee or prospective employee will be provided a copy of that report, the name, address, and telephone number of the consumer reporting agency, and a summary of their rights under the FCRA.
- F. All screening and/or testing results will be confidentially reviewed only by essential personnel, including the hiring administrator(s) and Human Resources and Employee Relations representative(s), and will be maintained in a separate file in Human Resources.

IV. Arrest and/or Conviction of an Employee after Employment:

A. A current employee who is in a security-sensitive position and is arrested during the period of active employment with the College is required to notify his/her first-line administrative supervisor within 48 hours after such arrest. The administrative supervisor, appropriate Cabinet Officer, Associate Director Employee Relations, Vice President for Financial and Administrative Operations (or the Executive Director of Human Resources), and the Chief of Police will review the arrest to determine eligibility for continued employment status. The recommendation regarding continued employment eligibility with the College will be based on a number of factors including, but not limited to, the following considerations:

- Legal requirements, including compliance with the Fair Credit Reporting Act (FCRA);
- Critical function(s) of the position;
- Relevancy to position responsibility;
- Date of offense, type of offense, and conviction (including deferred adjudication);
- Other factors that may affect the applicant’s or employee’s effectiveness in the position.
- The best interest of the College.

If a recommendation to terminate the employment relationship is made, the College will provide notice to the employee and the employee will be provided with due process, as applicable.

B. A current employee convicted of any type of offense is required to inform their first-line administrative supervisor within three workdays after conviction (including deferred adjudication). The administrative supervisor, appropriate Cabinet Officer, Associate Director of Employee Relations, Vice President of Financial and Administrative Operations (or Executive Director of Human Resources), and Chief of Police will review such conviction to determine eligibility for continued employment status. The recommendation regarding continued employment eligibility with the College will be based on a number of factors including, but not limited to, the following considerations:

- Legal requirements, including compliance with the Fair Credit Reporting Act (FCRA);
- Critical function(s) of the position;
- Relevancy to position responsibility;
- Date of offense, type of offense, and conviction (including deferred adjudication);
- Other factors that may affect the applicant’s or employee’s effectiveness in the position.
- The best interest of the College.

If a recommendation to terminate the employment relationship is made, the College will provide notice to the employee and the employee will be provided with due process, as applicable.

V. Exceptions to this procedure require the approval of the President of the College.

VI. Adjudication Guidelines:

A. Every applicant or employee, as applicable, will be assigned an Adjudication Status based on the results of their background screening and/or testing:

Adjudication Status	Explanation	Next Steps
Approved	The applicant’s or employee’s completed background and/or testing results do not trigger any additional review based on guidelines.	Employment Services may choose to move forward with employment without additional review or approval; the College may choose to continue employment without additional review or approval.
Pending – Further Review	The applicant’s or employee’s completed background and/or testing results have been flagged and require additional review.	Employment Services will initiate the FCRA pre-adverse action process. The hiring administrator(s), in conjunction with the Executive Director of

		Human Resources and/or the Associate Director, Employee Relations will determine the final Adjudication Status.
Do Not Proceed	The applicant or employee is in agreement with the background and/or testing results, has provided additional documentation in response to the FCRA pre-adverse notification, or has become unresponsive.	Employment Services initiates the FCRA adverse action process and the applicant or employee is notified of next step, to include due process, as applicable.

- B. Before an applicant or employee is cleared for future or continued employment, the background screening and/or testing results must be adjudicated and assigned a status.

Criminal Adjudication

(Note: Criminal convictions within the past 7 years, release from prison, or end of probation, whichever occurred last is the maximum time used to determine Adjudication Status)

No.	Background screening and/or testing results	Adjudication Status
1	No record found	Approved
2	Court disposition of waived or dismissed	Approved
3a	Traffic or vehicle and ordinance code violation. Misdemeanor traffic-related offenses including Driving Without a License (DWOL). Exception: DWI/DUI and related offenses (see No. 5)	Approved
3b	Three or more traffic-related violations and/or misdemeanor convictions (including DWOL)	Approved
4	One or more misdemeanor convictions (exception: if marijuana see No. 7) Except for crimes involving violence, weapons, theft (including receipt or possession of stolen property/goods), robbery, burglary, embezzlement, dishonesty, misappropriation, fraud, patient neglect, sex crimes and child abuse or crimes against the elderly	Pending – Further Review
5	Drunk driving or related charge (one or more conviction)	Pending – Further Review
6	Worthless (bad) check (one or more conviction)	Pending – Further Review
7a	Misdemeanor marijuana possession charge of less than 1 ounce over more than 2 years	Pending – Further Review
7b	First time marijuana misdemeanor conviction	Pending – Further Review
7c	More than one misdemeanor marijuana possession charge of less than 1 ounce in recent two years	Do Not Proceed
7d	Sales and/or delivery, and/or possession of controlled substances, paraphernalia and related offenses	Do Not Proceed
8	Contributing to the delinquency of a minor	Pending – Further Review
9	Unresolved bench warrant	Pending – Further Review
10	Conviction of a single sex crime	Do Not Proceed
11	Any felony conviction	Pending – Further Review
12	Any misdemeanor involving violence, weapons, theft (petty theft and receipt or possession of stolen property/goods included), robbery, burglary, embezzlement, patient neglect, dishonesty, misappropriation, fraud, sex crimes or child abuse and crimes against the elderly)	Do Not Proceed
13	Any offenses or court dispositions that are pending (including traffic and vehicle code violations, ordinance violations and traffic misdemeanors)	Pending – Further Review
14	Deferred adjudication, probation before judgment, adjudication withheld, and diversion are treated as an entry of guilt and are	Pending – Further Review

	treated as a conviction for the purposes of these guidelines; except as prohibited by law	
15	“Possible match” = court record cannot be precisely verified with at least 2 identifiers (name, date of birth, social security number, address, etc.)	Pending – Further Review
16	All others	Pending – Further Review

Education Adjudication

(Note: The highest level of education completed by the applicant or employee will be verified only if the College requires it)

1	High School Diploma or GED matched	Approved
2	Required degree matched	Approved
3	Required level of education not awarded	Do Not Proceed
4	Major differs dramatically	Pending – Further Review
5	Registrar’s office found no record of applicant, but applicant is able to provide copy of degree (High School/GED, college, or higher)	Pending – Further Review
6	Unable to verify education (includes school closed for break, no longer in business, no release available, extended turnaround, etc.)	Pending – Further Review
7	All others	Pending – Further Review

Employment Adjudication

(Note: Previous employment for the applicant will be verified only if the College requires it)

1a	Dates off by 3 months or less	Approved
1b	Dates off by more than 3 months	Pending – Further Review
1c	Do Not Contact Current Employer per applicant	Approved
1d	Verified dates exceed application dates	Approved
2	Employer claimed no record of applicant or unable to verify, but applicant is able to provide pay stub or W-2 form, 1099 or other form of documentation	Pending – Further Review
3	All others	Pending – Further Review

Sex Offender

1	Listed in Sex Offender registry regardless of job title and date of offense	Do Not Proceed
---	---	----------------

OIG/GSA Exclusions List

1	Listed in OIG/GSA registry regardless of job title and date of offense	Do Not Proceed
---	--	----------------

OFAC SDN (Office of Foreign Assets Control Specialty Designated Individuals)

1	Listed in OFAC SDN registry regardless of job title and date of offense	Pending – Further Review
---	---	--------------------------

MVR Adjudication

(Note: For positions that require a driver's license only)

1a	Two or less moving violations within the last 3 years	Approved
1b	Three moving violations within the last 3 years	Pending – Further Review
1c	Four or more moving violations within the last 3 years	Do Not Proceed
2a	Drunk driving or related charge (one violation within the last 3 years)	Pending – Further Review
2b	Drunk driving or related charge (two or more violations)	Do Not Proceed
3	Suspension, revocation or administrative restriction within the last three years	Pending – Further Review
4	Felony committed involving a vehicle	Pending – Further Review
5a	Leaving the scene of an accident	Pending – Further Review
5b	At fault in a fatal accident	Pending – Further Review
5c	Three or more “Company Vehicle” physical damage claims in any twelve-month period	Do Not Proceed

Drug Testing Adjudication

1	Negative result	Approved
2	Diluted specimen – negative	Approved
3	Positive result (including no contact positives and positive dilutes)	Do Not Proceed
4	Adulterated, Substituted or Refusal to Test	Do Not Proceed
5	Cancelled by applicant or employee	Pending – Further Review
6	All others (including test not performed or within provided timeframe)	Pending – Further Review