

## Criminal History Review

### POLICY

ACSET may administer programs that, either according to law or their own rules and guidelines, compel ACSET to require that some of its employees who are involved in and volunteers assisting in such programs submit to a criminal history review. In such cases, it is the policy of ACSET that, if the applicable law or rules and guidelines of a program require that ACSET conduct criminal history reviews on employees or volunteers who perform certain duties involved in the administration of the program, then volunteers and applicants for positions, as well as current employees who hold positions, which involve such duties, will be required to submit to a criminal history review, to the extent mandated by law or the rules and guidelines of the program. ACSET will review such criminal history information to determine if the volunteer, applicant or employee has ever been convicted of a type of offense that would disqualify him or her from performing such duties in connection with the program.

### RULE

1. A "conviction" includes a finding of guilt by a judge or jury, a plea of guilty, and a plea of nolo contendere (no contest).
2. If applicable law, or rules or guidelines of a program require ACSET to perform criminal history reviews on employees or volunteers who perform certain duties in connection with the program, then no applicant may be hired for any position which involves such duties, nor may any current employee or volunteer perform such duties unless he or she consents to submit to a criminal history review (see Consent to conduct Criminal History Review). Any current ACSET employee who holds a position which involves such duties and who refuses to consent to a criminal history review shall be suspended or terminated from that position by ACSET. ACSET shall not seek reimbursement from the applicant, volunteer or employee for the cost of the criminal history review.
3. Unless applicable law or such rules and guidelines specifically provide otherwise, the following types of convictions will disqualify an employee or volunteer from performing duties for which a criminal history review is necessary, and will disqualify an applicant for employment from being hired by ACSET for any position which involves such duties:
  - a. A felony or an attempt or conspiracy to commit a felony within 10 years immediately preceding the date of application for employment or the date of the consent to conduct a criminal history review, whichever is later.
  - b. A misdemeanor involving abuse, neglect, assault, battery, criminal sexual conduct, or fraud, theft, or a sexual offense against a minor or a vulnerable adult (as defined

By law's), or a state or federal crime that is substantially similar to any of the above misdemeanors, within 5 years immediately preceding the date of the application for employment, or the date of the consent to conduct the criminal history review, whichever is later.

An applicant for employment, volunteer or employee who has been convicted of a felony within 10 years of the date of his or her application for employment or the date of the consent to conduct the criminal history review, whichever is later, which felony was nonviolent and which did not involve controlled substances, fraud, theft, or an offense against a minor or a vulnerable adult, may be permitted by ACSET to perform such duties after review and consideration by ACSET of the following factors:

- a. The conviction was not less than 5 years prior to the date of application for employment or date of the consent to perform the criminal history review, whichever is later;
- b. The conduct of the applicant, volunteer or employee in improving his or her life since the conviction through education, employment, and other positive social behaviors;
- c. If the applicant, volunteer or employee had been incarcerated, the length of time since he or she has been released from confinement; and
- d. Whether the applicant, volunteer or employee is a repeat offender.

If applicable law or program rules or guidelines include different criteria which bar persons convicted of enumerated offenses from performing certain duties, ACSET will comply with such law, rules or guidelines with respect to such duties.

4. Any offer of employment for any position subject to the requirement of a criminal history review, as described above, is conditional, subject to ACSET's review of the applicant's criminal history. No applicant may be hired for a position involving, or any volunteer assigned to perform, duties for which a criminal history review is required by law or program rules or guidelines, who has felony charges pending against him or her. ACSET may suspend any current employee who has felony charges pending against him or her from performing any duties for which a criminal history review is required until such charges are resolved. ACSET shall terminate any current employee from any position which involves such duties if the employee commits, or is found by ACSET to have committed, any offense described in section 3.
5. If a criminal history review of an applicant for employment, volunteer or current employee is required by this policy, ACSET shall obtain his or her criminal background record from the Michigan Department of State Police.
6. a. If an application for employment or volunteer service is rejected on the basis of the

Criminal record of an applicant or volunteer, the applicant or volunteer shall be advised of the fact and provided with a copy of his or her criminal history obtained by ACSET. The Personnel Department shall file the criminal history record with the application.

- b. If ACSET demotes, disciplines, terminates, or imposes any adverse action upon a current employee on the basis of his or her criminal history or because of a criminal offense, ACSET shall advise the employee of this fact and provide him or her with a copy of the criminal history obtained by ACSET. The record of the criminal history or criminal offense shall be included in his or her personnel file.
7. Any information obtained by ACSET with respect to a person's criminal history pursuant to this section shall be used only for the purpose of evaluating that person's qualifications for employment or volunteer services for ACSET with respect to duties for which a criminal history review is required by law or program rules and guidelines. Such information shall not be disclosed to a person who is not directly involved in evaluating the qualifications of the applicant, employee or volunteer. Any criminal history record obtained by ACSET pursuant to this section which includes no convictions of offenses described in section 3 shall be destroyed.
8. Any employee whose position involves, or any volunteer who is assigned to, duties for which a criminal history review is required by law or program rules or guidelines, and who is convicted of an offense described in section 3, or who is charged with a felony, must notify ACSET or his or her supervisor within five (5) days after the conviction, or being charged with a felony. This rule is in addition to obligations imposed by ACSET's Drug Free Workplace Policy.