

# Austin Partners in Education

## Background Check Guidelines

School districts are required to obtain criminal history record information on certain volunteers (TX Education Code Section 22.083). The Safety Check (Raptor) screening performed for campus visitors does not satisfy the legal requirements to obtain criminal history information as it only checks for registration as a sex offender, not all criminal history.

### **Background Check Guidelines**

*Level 1 – High supervision volunteers:* Will be approved if applicant meets all of the following criteria:

- a. Has never been convicted of any crime of a sexual nature,
- b. Is not registered as a sex offender,
- c. Has no felony convictions in the past 10 years and no misdemeanors involving crimes of moral turpitude in the past 5 years, and has no such pending charges.
- d. Has no conviction or record, or combination of convictions or records that APIE determines, in its discretion, should disqualify the applicant from this level of approval, including patterns of violent acts or patterns of substance abuse and the like, and
- e. Responds to all background check inquiries within 2 weeks.

*Level 2 – Low supervision or unsupervised volunteers:* Will be approved if applicant meets all of the following criteria:

- a. Meets level 1 approval,
- b. Has never been convicted of a crime involving violence or assault,
- c. Has no misdemeanors involving moral turpitude within the past 10 years,
- d. Has no conviction or record, or combination of convictions or records that APIE determines, in its discretion, should disqualify the applicant from this level of approval, including patterns of violent acts or patterns of substance abuse and the like.

*Level 3 – Field trip drivers:* Will be approved if applicant meets all of the following criteria:

- a. Meets level 2 approval,
- b. Has no DWI or substance convictions in the past 10 years,
- c. Has no traffic violations in the past 6 months,
- d. Has no more than 2 traffic violations within past 5 years, and
- e. Has no conviction or record, or combination of convictions or records that APIE determines, in its discretion, should disqualify the applicant from this level of approval.

## Appendix A: MORAL TURPITUDE DEFINED

**Definition:** “...a phrase used in Criminal Law to describe conduct that is considered contrary to community standards of justice, honesty, or good morals.”

### OFFENSES THAT HAVE BEEN JUDGED TO BE CRIMES OF MORAL TURPITUDE

- **Sexual assault of a child** - In the Matter of GMP, 909 S.W.2d 198 (Tex. App.–Houston [14th Dist.] 1995, no pet.).
- **Lying to a police officer** - Lape v. State, 893 S.W.2d 949 (Tex. App.–Houston 14th Dist.] 1994, pet. ref ’d; (filing false report) Robertson v. State, 685 S.W.2d 488 (Tex. App–Fort Worth 1985, no pet.) (“no clear cut criteria” for moral turpitude).
- **Mail fraud** - State Bar v. Heard, 603 S.W.2d 829 (Tex. 1980).
- **Tax evasion** - In re Humphreys, 880 S.W.2d 402 (Tex. 1994) (whether a case involves moral turpitude is a question of law); In the Matter of Birdwell, 20 S.W.3d 685 (Tex. 2000).
- **Prostitution** - Holgin v. State, 480 S.W.2d 405 (Tex. Crim. App. 1972); Husting v. State, 790 S.W.2d 121 (Tex. App.–San Antonio 1990, no pet.).
- **Purchase of a child** - In the Matter of Thacker, 881 S.W.2d 307 (Tex. 1994).
- **Indecent exposure** - Polk v. State, 865 S.W.2d 627 (Tex. App.–Fort Worth 1993, pet. ref ’d).
- **Failure to stop & render aid** - Tate v. State Bar of Texas, 920 S.W.2d 727 (Tex. App.–Houston [1st Dist.] 1996, writ denied).
- **Theft** - Milligan v. State, 554 S.W.2d 192 (Tex. Crim. App. 1977). (**Note: APIE will not consider “theft of/by check” to be an item of moral turpitude, as it generally refers to a bounced check**)
- **Aggravated assault** - by Jackson v. State, 50 S.W.3d 579, 591 (Tex. App.–Fort Worth 2001, pet. ref ’d); **a man on a woman** Ludwig v. State, 969 S.W.2d 22 (Tex. App.–Fort Worth 1998, pet. ref ’d); Hardeman v. State, 868 S.W.2d 404 (Tex. App.–Austin 1993), pet. dism’d, 891 S.W.2d 960 (Tex. Crim. App. 1995).
- **Assault by a male on a female** - Trippell v. State, 535 S.W.2d 178 (Tex. Crim. App. 1976).
- **Communicating a false alarm** - Op.Tex. Att’y Gen. DM 96-140 (1996).
- **Murder and indecent exposure** - Polk v. State, 865 S.W.2d 627 (Tex. App.–Fort Worth 1993, pet. ref ’d). Swindling Sherman v. State, 62 S.W.2d 146 (Tex. Crim. App. 1933).
- **Bank fraud** - Searcy v. State Bar of Texas, 604 S.W.2d 256 (Tex. 1980).

### OFFENSES THAT HAVE BEEN JUDGED *NOT* TO BE CRIMES OF MORAL TURPITUDE

- **Felony drug possession** In the Matter of Lock, 54 S.W.3d 305 (Tex. 2001)
- **Delivery of marijuana** Hernandez v. State, 976 S.W.2d 753 (Tex. App.—Houston [1st Dist.] 1998), pet.ref ’d, 981 S.W.2d 652 (Tex. Crim. App. 1998).

- **Misprision** *Duncan v. Board of Disciplinary Appeals*, 898 S.W.2d 759 (Tex. 1995) (crimes involving moral turpitude are those that involve dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on a person's honesty or trustworthiness).
- **Aggravated assault with SBI** *Turton v. State Bar of Texas*, 775 S.W.2d 712 (Tex. App.—San Antonio 1989, writden.) (not on its face a felony involving moral turpitude—look into the circumstances of the offense to determine).
- **Misdemeanor possession of marijuana** *Bell v. State*, 620 S.W.2d 116 (Tex. Crim. App. 1981).
- **Juvenile delinquency** *Rivas v. State*, 501 S.W.2d 918 (Tex. Crim. App. 1973).
- **Unlawfully carrying a weapon** *Trippell v. State*, 535 S.W.2d 178 (Tex. Crim. App. 1976).
- **Gambling** *Neill v. State*, 258 S.W.2d 328 (Tex. Crim. App. 1953).
- **Misdemeanor DWI** *Shipman v. State*, 604 S.W.2d 182 (Tex. Crim. App. 1980); *Janecka v. State*, 937S.W.2d 456 (Tex. Crim. App. 1996).
- **Public intoxication** *Ochoa v. State*, 481 S.W.2d 847 (Tex. Crim. App. 1972).
- **Reckless conduct** *Patterson v. State*, 783 S.W.2d 268 (Tex. App.—Houston [14th Dist.] 1989, pet.ref 'd).
- **Assault** *Valdez v. State*, 450 S.W.2d 624 (Tex. Crim. App. 1970).
- **Disrupting the peace** *Garza v. State*, 532 S.W.2d 624 (Tex. Crim. App. 1976).
- **Criminal trespass** *Hutson v. State*, 843 S.W.2d 106 (Tex. App.—Texarkana 1992, no pet.).
- **Criminal mischief** *Gonzalez v. State*, 648 S.W.2d 740 (Tex. App.—Beaumont 1983, no pet.).
- **Soliciting bonding business** Op. Tex. Att'y Gen. GA-299 (2005) (violations of Tex. Occ. Code §1704.304 (soliciting bonding business in a police station, jail, prison, detention facility, or other place of detainment)).

\*\*\*The following are cases in Texas that set the precedent for what crimes do and do not constitute moral turpitude. Obviously, each case is different, but generally speaking, cases involving the following offenses will result in the determinations listed above.