

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

MEMORANDUM

TO: All Supervisors of State Employees

FROM: Major General Mark E. Bartman, The Adjutant General *MGB 29 June 15*

DATE: June 1, 2015

SUBJECT: POLICY – Adjutant General's Department Background Check Policy

Purpose

The intent of this Background Check Policy is to provide uniform guidelines and procedures for conducting criminal background checks on candidates selected to fill a vacant position at the Ohio Adjutant General's Department (ADJ). The background check process is intended to comply with DOD regulations and help ADJ evaluate whether a candidate is suitable for a position. ADJ desires to promote fair and consistent methods to obtain, analyze, and retain background check information, while securing the Department of Defense network and assets.

Scope

This policy is applicable to all current and prospective ADJ State of Ohio employees.

Procedures

A. Use of Background Checks

Background checks must be conducted on internal and external final candidates for the following positions:

1. Full time exempt and non-exempt employees and staff; and
2. Temporary, interim, seasonal and intermittent appointments

Internal candidates who have had a background check through ADJ within the past 12 months are not required to have a new background check unless additional searches are required by position requirements. The additional searches must be conducted at the time of the transfer. Hiring divisions should review the previous background check results in relation to the position for which the candidate is being considered. External candidates who have had an NACI or similar security investigation completed within the past 12 months are not required to have a new background check unless additional searches are required due to the duties of the new position.

Employees who have a break in service and return to ADJ must have a background check if the position requires one.

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1. Pre-employment – all positions will be subject to a pre-employment criminal background check. However, due to the nature of the position, a tax lien search and/or a driver's record review may also be required.

AND

2. Suitability for Federal Employment – as a requirement to use any DOD network device and in accordance with Homeland Security Presidential Directive 12 (HSPD – 12), all employees must pass an investigation through the Personnel Security Investigation Center of Excellence (PSI-CoE).

C. Administration of Background Checks

1. Candidates shall be informed of the requirements to complete a background check at their initial interview and must indicate their consent prior to completion of the background check. Failure to provide consent will preclude a candidate from consideration.
2. Background checks shall be conducted upon selection of the candidate for a vacant position prior to the candidate's first day of employment. Human Resources shall conduct the background check through Open online.
3. ADJ shall pay for candidate's initial criminal check for the purpose of employment.
4. All offers of employment are contingent upon successful completion of the background check and all written or oral offers of employment must state, "This offer is contingent upon ADJ's verification of credentials and other information required by law and/or ADJ's policies or practices, including but not limited to a criminal background check and a favorable suitability or fitness determination."
5. Due to the nature and scope of ADJ's mission, all employees must be able to obtain and maintain a Common Access Card (CAC). In the event an employee or prospective employee is not able to obtain or maintain a CAC, they cannot be employed by the ADJ.

D. Assessment of Background Check Information

1. Offenses/Convictions on a candidate's criminal history record will be reviewed considering the following factors:
 - a. Severity and nature of the offense or conviction;
 - b. Whether there are multiple similar convictions that could indicate an ongoing pattern of behavior;

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- c. Time that has passed since the offense or conviction;
 - d. Employment history since conviction or other information;
 - e. Relevance of the offense or conviction to the job held or sought;
 - f. Relevance of the offense or conviction, e.g., of a violent nature, to the safety and welfare of individuals including employees and the general public or involves moral turpitude;
 - g. Whether the conviction precludes the candidate from employment based on federal or state laws and regulations; and
 - h. Whether the conviction or offense creates a substantial likelihood that the employee or applicant will not be able to obtain or retain a CAC and/or access the DOD network.
2. Candidates shall be informed of the offenses or convictions by providing a copy of their results. Candidates may be given an opportunity to provide written clarification or additional information. A criminal conviction is not necessarily a total bar to initial or continued employment, but instead requires additional assessment by ADJ as provided in this section.
 3. A listed offense or conviction that occurred within seven years of the criminal history check shall automatically be reviewed. An arrest without a conviction in a closed case will be considered solely in connection to the Declaration for Federal Employment, Form 306.
 4. Open criminal cases may preclude a final candidate from eligibility for employment. ADJ will assess the circumstances surrounding the arrest, as well as the time frame, nature, gravity, and relevance of the charge to the job duties. Human Resources, in consultation with the Chief Legal Counsel's Office, is ultimately responsible for determining whether the final candidate is eligible for employment.
 5. Any candidate that has not been selected to fill a vacancy and/or is barred from future consideration for employment as a result of their criminal background check will be notified in writing as provided in Section F.
 6. All information received in connection with the background check process will be treated with discretion and shall be disclosed only as necessary or otherwise required by law.

E. Talking with Candidates about Criminal Convictions

Internal and external applicants are required to disclose criminal conviction information as part of the interview process.

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1. If an applicant discloses criminal conviction information during the interview, Human Resources staff assigned by the Human Resources Manager should follow up with the applicant if there are any questions prior to the offer of employment.
2. Human Resources staff should ask the candidate if there are any other criminal convictions not disclosed during the interview process and discuss the details with the candidate.
3. Human Resources staff must include any negative information provided by final candidates not disclosed during the interview which a background check may disclose in the candidate's file.

F. Determination

Background checks with criminal offenses will be reviewed by the Human Resources Manager or their designee in consultation with the Chief Legal Counsel or the Deputy Chief Legal Counsel. All criminal background check information is confidential and cannot be disseminated beyond relevant agency staff.