

ADMINISTRATIVE PROCEDURES



Procedure Number: 3-18

Effective Date: 09/22/2000

Revision Date: 06/15/2003

C. Deibel
County Administrator

SUBJECT: **FAILURE TO RECEIVE INITIAL CLEARANCE
ON CRIMINAL BACKGROUND CHECKS**

DEPARTMENT RESPONSIBLE: **All County Departments**

I. STATEMENT

Certain positions in Pima County require clearance on background checks in order for an employee to continue his or her employment in a position requiring clearance. Although the following discussion deals mainly with the health provider and juvenile detention areas, these procedures apply to any and all positions requiring clearance, pursuant to State statutes, to perform the job assignments.

II. DISCUSSION

Arizona Revised Statutes (ARS § 36-411) requires that persons providing direct care or supportive services in residential care institutions, nursing care institutions, or home health agencies must submit fingerprints for a state and federal background check. If the results of the criminal background check show that a person is "awaiting trial on or has been convicted of" any of twenty-three (23) specific offenses outlined in the statutes, he or she may not provide direct care or supportive services in a nursing or residential care facility. ARS § 41-2814 mandates the same for all employees and contract service providers who have direct contact with committed youths within a secure care facility.

When an employee fails his or her initial clearance on criminal background checks, he or she may request a good cause exception hearing with the board of fingerprinting. If the board of fingerprinting grants a good cause exception the person may then provide direct care, home health services or supportive services for a residential care institution, nursing care institution or home health agency or a secure care facility for committed youth.

The Statutes require that the County not allow an employee to work with vulnerable populations when the person has failed the background check. If the person is already employed, immediate action must be taken to remove the employee from his or her position. Should a good cause exception be granted, the person is eligible to reapply.

III. PROCEDURE

- A. One notice has been received by Pima County that indicates a person is not eligible to perform in his or her position, that person must be terminated immediately. No employee who must possess a fingerprint clearance in order to perform his or her job assignment is to be retained during either the appeal of a fingerprint clearance denial or the good cause exception determination.
- B. Before terminating the employee, the department must notify the County Attorney's Civil Division to ensure that proper procedures are followed.
- C. Based on Arizona law requiring clearance on background checks for continued employment, an employee who has not received initial background clearance and is terminated has no right to appeal his or her termination before the Pima County Merit Commission or Law Enforcement Merit Commission.
- D. If the employee is subsequently granted clearance, he or she becomes eligible to re-apply for job opening with the County requiring clearance.