

# ADMINISTRATIVE PROCEDURES



Procedure Number: 23-34

Effective Date: 7/01/2020

Revision Date: \_\_\_\_\_

  
County Administrator

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SUBJECT: **PRE-EMPLOYMENT BACKGROUND SCREENING**

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DEPARTMENT RESPONSIBLE: **Human Resources Department**

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## I. PURPOSE

The purpose of this administrative procedure is to ensure that a pre-employment background screening is conducted on all applicants selected for hire who are not specifically exempted and to provide a process for conducting the screening. The primary goal of this administrative procedure is to ensure County hiring practices:

- Comply with the Equal Employment Opportunity Commission (EEOC) guidance and limit liability under Title VII of the Civil Rights Act and state and local anti-discrimination laws;
- Comply with the Fair Credit Reporting Act (FCRA); and
- Minimize the risk of liability from hiring an unfit employee.

## II. POLICY

Background investigations provide information necessary to determine an applicant's overall suitability for employment and promote the protection of Pima County's information, physical property and other assets. Proper use of background investigations ensures applicants are considered for employment based on the merit of their skills, experience and other qualifications specifically related to the position for which they are applying in compliance with all applicable federal, state and local laws, including fair employment practices and equal employment opportunities.

Selected candidates for County positions will receive an offer contingent upon successfully passing a background check. If an application discrepancy is discovered during the background check, the County will provide an opportunity for the applicant to explain the discrepancy prior to the application being disqualified. Individuals who have a prior related criminal conviction will be provided an opportunity to discuss and/or explain the criminal conviction and its relevance or not to the position for which they are being considered. This procedure does not preclude a hiring department from conducting additional background investigations that may be required due to position requirements and business necessity.

**III. APPLICABILITY**

This administrative procedure applies to all County departments. It does not apply to:

- A. Any department conducting criminal background checks through the Arizona Department of Public Safety (DPS) and/or Federal Bureau of Investigations (FBI) for specific positions required to have DPS clearance for working with children or vulnerable adults in accordance with applicable Arizona Revised Statutes or Pima County ordinance;
- B. Any department conducting criminal background checks on new employees as a law enforcement or judicial/court agency or for positions requiring access to federal or state criminal reporting databases or when otherwise required by a state, federal or local law;
- C. Departments hiring youth workers or for a Summer Youth program;
- D. Elected Officials.

**IV. PROCEDURE**

- A. Applicants will be notified of the requirement to successfully pass a background investigation if they are the successful candidate selected for the position. The County will not conduct a background investigation without the applicant's permission.
- B. The County shall not inquire about an applicant's criminal history at any point during the initial application nor subsequent selection process, prior to the applicant being offered, and accepting, a conditional offer of employment. Certain exceptions exist where a state or federal law prohibits a person from holding a job due to prior criminal conduct. In such instances, the hiring department may inquire about an applicant's criminal history during the selection process and may disqualify the applicant from further consideration for such reason, prior to extending a conditional offer of employment.
- C. After an applicant has been identified as otherwise qualified for a position based on their skills and experience, all offers of employment made to new hires, not specifically exempted from this administrative procedure, are contingent upon successful completion of a thorough background investigation.
- D. The Human Resources Department is responsible for coordinating the background investigation process for all positions not specifically exempted from this administrative procedure (see paragraph III above for departments or positions that may be exempted) and may use a third-party vendor to conduct background investigations and to verify the accuracy of the information provided by the applicant, subject to availability of information contained in consumer reports.

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- E. All background investigations and any resulting adverse actions resulting from the background investigations will be conducted in compliance with applicable federal and state statutes, such as the FCRA and the Americans with Disabilities Act ("ADA").
- F. Background investigations conducted may include but are not limited to:
1. **Social Security Validation:** Validates the applicant's Social Security number, date of birth and former addresses.
  2. **Employment Verification:** Confirms applicant's employment as listed on the application and/or resume, and, subject to available information, may include dates of employment, position held and additional information available pertaining to salary/wages, performance rating and reason for departure and/or eligibility for rehire.
  3. **Multi-State Criminal History:** Provides records from Counties of past residence and Federal criminal history checks for any crimes committed in violation of Federal law in the district of current residence.
  4. **Education Verification:** Confirms the educational institution, the years attended and the degree/diploma received for positions which require a Bachelor's Degree or higher or when the applicant has listed higher education on their application.
- G. Following the selected candidate's acceptance of a conditional offer of employment, the hiring department will initiate the hire process in the County's applicant tracking system (ATS). The Human Resources Department will then initiate the pre-employment background check for all departments and positions not exempted by paragraph III above. While the objective is to initiate and receive satisfactory results of the pre-employment background check on the selected applicant for hire, before the applicant actually starts work, it is understood there will be circumstances that may prevent the results of the pre-employment background check being received and reviewed by the HR Department before the intended start date established for the selected applicant. In those instances, the applicant may start their employment as scheduled, however continued employment is contingent upon the pre-employment background check being satisfactory when the results are returned and reviewed by the Human Resources Department.
- H. The Human Resources Department will review all completed pre-employment background checks resulting from this administrative procedure and shall consult with the hiring department and/or the County Attorney if the results received raise concerns over the suitability of the selected candidate for hire/employment with the County.
- I. The Human Resources Department will ensure appropriate notification to the applicant of any negative information received from the third-party vendor conducting the pre-employment background check before taking any adverse action and after taking adverse action (i.e. withdrawing a contingent offer of employment or terminating an employee if the employee started work before the pre-employment background check was completed) as required by the Fair Credit Reporting Act ("FCRA").

- J. The Human Resources Department will review and analyze any reported criminal convictions identified by the pre-employment background check in accordance with the Equal Employment Opportunity Commission's ("EEOC") guidelines under Title VII of the Civil Rights Act of 1964, as amended, before withdrawing a contingent offer of employment or terminating a recently hired employee (if the employee started work before the pre-employment background check was completed). Prior arrests without convictions or pending prosecutions will not be taken into consideration. The Human Resources Department shall consult with the Appointing Authority (or designee) of the hiring department and/or the County Attorney's Office when necessary before making a decision, or in the case of an Elected Official's Department, before making a recommendation to the Elected Official.
- K. All information obtained from the pre-employment background check process will only be used as part of the employment process and will be kept strictly confidential. Unless required by law, only the Appointing Authority (or designee) of the hiring department, appropriate Human Resources Department personnel and staff of the County Attorney's Office will have access to the information. Pima County complies with all federal and state laws regarding the collection, storing and disposal of applicant information obtained under the Fair and Accurate Credit Transactions Act (FACTA).