

**ARIZONA STATE PERSONNEL SYSTEM  
STATEWIDE POLICIES AND PROCEDURES**

<b>Policy Number:</b> ASPS/HRD-PA3.03	<b>Issued:</b> October 4, 2012
<b>Subject:</b> Application for Employment; Pre-employment Reference and Background Checks	<b>Effective:</b> October 4, 2012
<b>Policy Section:</b> Recruitment, Selection, and Appointment	<b>Revised:</b> March 2, 2018
<b>Policy Owner:</b> ADOA Human Resources Division	

This policy does not create a contract for employment between any employee and the State. Nothing in this policy changes the fact that all uncovered employees of the State are at-will employees and serve at the pleasure of the appointing authority.

**Scope:**

This policy applies to all agencies, boards, offices, authorities, commissions, or other governmental budget units of the State that are part of the State Personnel System (SPS).

**Authority:**

- A.R.S. § 41-746, Refusal of consideration for employment; verification of education and work history
- A.R.S. § 41-747, Employment procedures; violation
- A.A.C. R2-5A-302, Recruitment
- A.A.C. R2-5A-303, Reference and Background Checks
- E.O. 2017-07, The Establishment of Arizona as a Second Chance Employer

**Definitions:**

*“Agency”* means a department, board, office, authority, commission, or other governmental budget unit of the State Personnel System.

*“Agency head”* is defined as the chief executive officer of a state agency, or designee.

*“Candidate”* means a person whose education, experience, competencies and other qualifications meet the requirements of a position and who may be considered for employment.

*“Contingent job offer”* means a written offer of employment that is dependent on the candidate successfully completing any/all pre-employment screening requirements specific to the position for which the candidate has applied. Examples of pre-employment screening requirements include, but may not be limited to: reference checks, commercial driver and motor vehicle record checks.

*“Criminal background check”* may be performed by an agency only if the agency has statutory or executive order authority to conduct such a check; typically involves the submission of fingerprints to state and federal law enforcement agency(ies) to obtain information collected by those agencies that consists of identifiable descriptions and notations of arrests, detentions, indictments and other formal criminal charges, and any disposition arising from those actions, sentencing, formal correctional supervisory action and release.

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*“Current and previous employers”* means the immediate or upline supervisors who can attest to the candidate’s work performance and duties.

*“Director”* means the Director of the Arizona Department of Administration, or the Director’s designee, who is responsible for administering the State Personnel System pursuant to applicable state and federal laws.

*“Final job offer”* means the formal written offer of employment which includes the position, salary and start date and is extended to a candidate who has successfully completed all pre-employment screening requirements.

*“Reference and background check”* means:

- Verifying the education, employment history, license, registration or other relevant qualifications of a candidate in order to obtain information and recommendations that may be relevant to the candidate’s fitness for employment; and,
- Only if the agency has specific statutory or executive order authority to do so, conducting a criminal background check and/or a credit check on a candidate.

#### **Policy:**

Hiring agencies shall comply with all federal and state laws and regulations regarding recruitment and selection, including, but not limited to:

- A.A.C. R2-5A-302(B), which requires a candidate for employment to complete the standardized application form developed by the Director;
- A.R.S. § 41-746, which requires state agencies to, “make documented, good faith efforts to contact current and previous employers of a candidate to obtain information and recommendations that may be relevant to the candidate’s fitness for employment”;
- A.A.C. R2-5A-303, which requires state agencies to verify education, work experience, applicable licenses and references provided by candidates; and,
- Executive Order (E.O.) 2017-07, which prohibits state agencies from asking whether an applicant has a criminal record during the initial stage of the application process, unless a federal or state law or regulation prohibits a person from holding a job due to prior criminal conduct, or unless the state agency is exempt from E.O. 2017-07.

A contingent job offer may be extended to a candidate while awaiting verification of pre-employment screening requirements and the candidate’s completion of the SPS Application for Employment (Part 2 of 2) – Criminal Record Information, to communicate the agency’s interest in the candidate.

Prior to making a final job offer to a candidate (including promotions and lateral transfers for current State employees), the hiring agency shall:

- Ensure the candidate completes the SPS Application for Employment (Part 2 of 2) – Criminal Record Information, and review the information provided;
- Complete pre-employment screening requirements by verifying current and previous employment, education, certifications, registrations or licenses and/or any other necessary qualification(s) for candidates for employment; and,
- When a hiring process involves a current or former State employee, the hiring agency shall also review the State employee’s personnel file.

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A hiring agency shall not conduct a criminal background check or a credit check on a candidate unless the agency has statutory or executive order authority to conduct such a check. If the hiring agency has proper authority, the agency must conduct these checks in accordance with federal and state law(s) and regulation(s), as well as the agency's policy.

#### **Procedure:**

##### ***SPS Application Form***

The standardized application form developed by the Director consists of two parts:

- SPS Application for Employment (Part 1 of 2); and
- SPS Application for Employment (Part 2 of 2) – Criminal Record Information

##### ***Application for Employment (Part 1 of 2)***

Prior to or at the time of the initial interview, hiring agencies should require candidates to submit a completed SPS Application for Employment (Part 1 of 2). Candidates are required to complete the application form accurately and completely in regard to employment history, education, training, licenses, certifications and registrations. Omissions, misstatements or falsification of information on an application may result in disqualification from consideration for future positions in the SPS or if the individual is a current State employee, discipline or separation from State employment. The application form also contains a release of liability for employers, educational institutions, licensing entities, etc. that provide employment related information.

##### ***Application for Employment (Part 2 of 2) – Criminal Record Information***

Hiring agencies (*including agencies that have statutory or executive order authority to obtain a state and federal criminal records check pursuant to A.R.S. § 41-1750*) shall require candidates to submit a completed SPS Application for Employment (Part 2 of 2) – Criminal Record Information, as follows:

- If a federal or state law or regulation would prohibit a person from holding the position for which the person applied due to prior criminal conduct, the state agency may require the candidate to also submit a completed SPS Application for Employment (Part 2 of 2) – Criminal Record Information, as well as any agency-specific background check forms, prior to or at the time of the initial interview. Positions meeting this criteria would include, but may not be limited to:
  - A position required to have (or obtain) a valid fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07
  - A peace officer position, where A.A.C. R13-4-105 prohibits from consideration an individual who has been convicted of a felony or any offense that would be a felony if committed in Arizona
  - A state correctional officer position, where A.A.C. R13-4-202 prohibits from consideration an individual who has committed a felony or a misdemeanor of a nature that the Arizona Peace Officer Standards and Training Board determines has a reasonable relationship to the function of the position
- For all other positions, unless the state agency is exempt from E.O. 2017-07, state agencies shall not require completion of the SPS Application for Employment (Part 2 of 2) – Criminal Record Information, or inquire into the criminal record of a candidate until after the candidate has submitted the initial application AND provided an initial interview. A high-level overview of the process flow is provided in the document entitled, Second Chance Hire Process (see Related Forms/Links).

***Verification of Current and/or Previous Employment***

Hiring agencies shall verify a candidate's most recent five (5) year work history by contacting current and prior employers per the following guidelines:

1. Confirm that the candidate has checked "Yes" on the SPS Application for Employment (Part 1 of 2), for the question "May we contact this employer?" If the candidate marked "No", confirm explanation provided by the candidate on the form. Confirmation should be obtained from the candidate either in writing or verbally, allowing the respective hiring agency to contact the candidate's current or most recent employers. This documentation should be indicated on the Application for Employment (Part 1 of 2) or the SPS Pre-employment Verification and Reference Check Form.
2. If the candidate has worked for their current or most recent employer for five (5) or more years, a five (5) year work history reference/verification from the current or most recent employer is sufficient.
3. If the candidate has worked for their current or most recent employer for less than five (5) years, contact the current or most recent supervisor, as well as any other previous supervisors for the past five (5) years.
4. If the candidate has no work history, three (3) professional references from non-relatives shall be contacted in lieu of current and previous employers. Examples of acceptable references include former teachers, professors, volunteer organizations, internship managers, etc.
5. If a candidate for employment is a current or former State employee, the official personnel file shall be reviewed prior to the issuance of a final job offer unless the personnel file was destroyed in accordance with the Arizona State Library, Archives and Public Records retention schedule. The file can be obtained and/or accessed by contacting the candidate's current/former State agency Human Resources office. State agencies shall provide access to an employee's official personnel file to an official of a State agency to which the employee has applied and respond to reference checks by the hiring agency.
6. Agencies are not required to re-verify references obtained during a previous reference check for a current agency employee. A copy of the prior reference check must be filed with the hiring paperwork. For internal employees being considered for a position with the same supervisor, reference checks are not required. A notation on the reference check form shall be made indicating the current supervisor is making the job offer.

***Verification of Education, Occupational or Professional Licensure, Certification or Registration***

If it is a requirement for the position or if any portion of the hiring decision was based on the candidate's possession of specific post-secondary education, degree, license, certification or registration, the hiring agency shall obtain the required verification from the candidate. The candidate may be responsible for any costs incurred in providing such verification.

Hiring supervisors should attempt to independently verify documents provided by the candidate whenever possible and appropriate, for example, by checking an online licensing database. At the discretion of the agency head, an unofficial transcript may be considered adequate verification of post-secondary degrees.

In the case of a professional license, certification or registration, the respective hiring agency must verify that the individual has a valid credential, and check the candidate's record for disciplinary or other adverse actions or censures.

***Review of Application – Criminal Record Information***

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In reviewing a candidate's Application for Employment (Part 2 of 2) – Criminal Record Information, the agency should consider any disclosures of criminal history in accordance with the following factors before making a final job offer:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense or conduct and/or completion of the sentence; and,
- The nature of the job held or sought and the relatedness of the conviction(s) to the duties and responsibilities of the position

#### ***Criminal Background Check***

Only specific agencies have authority to conduct criminal background checks on candidates for specific/certain positions. In order to conduct a criminal background check, an agency must have statutory or executive order authority. Unauthorized access to criminal history information as stated in A.R.S. § 41-1756, is a class 6 felony. Agency heads are responsible for ensuring that proper statutory or executive order authority is in place prior to conducting criminal background checks.

#### ***Post-offer Medical/Physical Examinations***

Some positions require a physical examination prior to appointment; contact the hiring agency's Human Resources Office for guidance.

#### ***Other qualifications for employment***

To verify any other qualification for employment not listed above, contact the appropriate agency Human Resources office or the Arizona Department of Administration Human Resources Division for guidance.

#### **Related Forms/Links**

[Process Flow – Second Chance Hire Process](#)

[SPS Application for Employment \(Part 1 of 2\)](#)

[SPS Application for Employment \(Part 2 of 2\) – Criminal Record Information](#)

[Pre-Employment Verification and Reference Check Form](#)

#### **Corresponding Policies**

ASPS/HRD-PA3.07, Disqualification for Consideration of Employment

#### **Contact**

If you have any questions related to HR Policy, please contact your agency's Human Resources Office/representative.

#### **Policy History (supersedes)**

- ASPS/HRD-PA3.03, Application for Employment; Pre-employment Reference and Background Checks (June 1, 2017)
- ASPS/HRD-PA3.03, Pre-employment Reference and Background Checks (February 13, 2015)
- ASPS/HRD-PA3.03, Pre-employment Reference and Background Checks (October 4, 2012)