



BOARD OF COUNTY COMMISSIONERS

ADMINISTRATIVE ORDER

NUMBER: A0-05
CANCELS: 6/12/18
APPROVED: 7/24/20
ORIGINATOR: Human Resources
REVIEW: 7/24/23

Title: Background Investigation Checks

I. PURPOSE AND SCOPE

To establish a consistent, county-wide procedure for conducting background investigation checks.

II. DEFINITIONS AND REFERENCES

Applicant - An external applicant or volunteer being considered for a position or a current employee being considered for a position with a higher security level as the result of a promotion, transfer or demotion.

B. At-Risk Population- Children, elderly, disabled, and those whom cannot defend themselves. Example of settings in which individuals come into contact with at-risk populations include, but are not limited to:

- Daycare: senior citizen centers and community day programs for children.
- Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
- Program activities involving children on school property.
- Shelters: homeless, domestic violence or special needs emergency shelters.
- Youth development programs.
- Volunteer programs for the elderly or individuals with disabilities; such as, Meals on Wheels or other community/volunteer programs.
- Library areas/programs designated for children.
- Park areas/programs designated for children.

C. Background Investigation Handbook - a handbook with detailed information about how to complete and interpret the background checks.

D. Background Checklist - a form used to track the results of the background checks performed by the Department/Office.

- E. Conviction - defined as a law violation where there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to the question of law violation on the application will not automatically bar the applicant from employment. The nature, job relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

- F. Recertification - Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.

G. **SECURITY LEVELS:**

High Level (Level I) - Applies to an employee or volunteer who has unsupervised access and/or contact with individuals identified as being in the at-risk population.

Moderate Level (Level 11) - Applies to an employee or volunteer who has supervised access and/or contact with individuals identified as being in the at-risk population.

Low Level (Level 111) - All other employees or volunteers who do not fit into the High or Moderate security levels.

- H. VECHS - an acronym for the Volunteer & Employee Criminal History System at the Florida Department of Law Enforcement (FDLE). The VECHS program agreement allows Brevard County to submit state and national checks for employees and volunteers, as needed.
- I. F.S. 112.011 - Felon; removal of disqualifications for employment, exceptions.
- J. F.S. 943.04351 - Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

III. RESPONSIBILITIES

- A. Each Department/Office Director shall establish a background investigation check procedure which ensures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.
- C. Each Department/Office shall be responsible for verifying that each applicant

meets the requirements for the job, including educational and/or licensing verification, driver's license check.

- D. Each Department/Office shall be responsible for checking and documenting a total of three (3) of the applicant's employment and/or personal references. Document if the applicant has insufficient work history (i.e.; a student with no experience or someone returning to the workforce after a long absence) or is a volunteer. Due diligence must be used in obtaining these references, but if no response is received, documentation should be made of what efforts were made. Reference checks are not mandatory for those temporary employees hired on a seasonal basis.

The Background Investigation Handbook has detailed instructions and reference forms to be used in checking these references.

- E. Each Department/Office shall perform the required minimum criminal background investigation checks at the appropriate security level for applicants under final consideration and document the results on the Background Checklist, which shall be provided to the Office of Human Resources with the background documents.

1. High-Level Security Check (Level I):

- Fingerprints - submit fingerprints to FDLE under the VECHS agreement using digital fingerprint machine or using the fingerprint card provided for FDLE and National FBI criminal investigation check.
- Brevard electronic Court Application (BECA): www.brevardclerk.us

2. Moderate-Level Security Check (Level II):

- FDLE: <https://web.fdle.state.fl.us/search/app/default>
- Brevard Electronic Court Application (BECA): www.brevardclerk.us
- National Sex Offender Public Website: www.nsopw.gov
- Out-of-State criminal checks based on past seven (7) years address history (on-line checks may be done, if available), or alternatively a national background check.

3. Low-Level Security Check (Level III):

- Brevard Electronic Court Application (BECA): www.brevardclerk.us
- National Sex Offender Public Website: www.nsopw.gov
- Florida Department of Corrections: www.dc.state.fl.us
- Out-of-Area criminal checks based on past two (2) years address history (on-line checks may be done, if available).

- F. Applicants under final consideration for positions classified as high security level shall be subject to the following guidelines for criminal background checks.

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought.

1. A prior conviction of any of the following criminal offenses, if a felony or first-degree misdemeanor, is considered to be directly related to any high-level security position, regardless of when it occurred, and will disqualify an applicant from further consideration:

- Child Abuse, Neglect or Abandonment
- Extortion
- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
- False imprisonment
- Hate Crime
- Indecent Exposure if Sexual in Nature
- Kidnapping
- Manslaughter
- Child Pornography
- Illegal Possession of Guns or Weapons
- Robbery
- Sale of Controlled Substance
- Sexual Offense (Lewd and Lascivious- Sexual Battery)
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

2. A prior conviction of any of the following criminal offenses, if a felony or first-degree misdemeanor, is considered to be directly related to any high-level security position if it occurred within five (5) years of the date of the background check, and will disqualify an applicant from further consideration:

- Battery/Assault
- Domestic Violence
- Misdemeanor Drug and/or Paraphernalia
- Resisting Arrest with Violence
- Sale of Alcohol or Tobacco to a Minor
- Contributing to the Delinquency of a Minor
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

A prior conviction of one of the above criminal offenses, if a felony or first degree misdemeanor, that occurred beyond five (5) years of the date of the background check, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and the applicant is disqualified from further consideration.

- 3. A prior conviction for any of the following criminal offenses, if a felony or a first-degree misdemeanor, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and if the applicant is disqualified from further consideration:**

- Disorderly Conduct/Trespassing
- Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
- Petty Theft
- Worthless Checks
- Other Crimes
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

- G. When determining whether a prior criminal conviction for any of the criminal offenses listed in Section F above are directly related to a high, moderate or low-level security position, an appointing authority shall take the following factors into consideration:

- The classification of the crime as a felony or first-degree misdemeanor
- The relationship between the incident and the type of employment or service that the applicant will provide.
- The nature, severity, number, and consequences of the incidents disclosed.
- The amount of time elapsed since the incident(s) occurred.
- The applicant's efforts and success at rehabilitation.
- The age of the applicant at the time of the incident.

If there is any question about whether the criminal offense is directly related to the position, contact the County Attorney's Office.

- H. After the background investigation checks are satisfactorily completed, the Department/Office can initiate the request for the applicant to be hired to a paid position or coordinate a start date for a volunteer placement.

IV. **RESERVATION OF AUTHORITY**

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.


Frank Abbate, County Manager


DATE