




Policy Title	Hiring Process and Background Checks
Effective Date	June 21, 2019
Supersedes	Policy dated July 1, 2017
Approval	 State Personnel Director
References	IC 10-13-3-38.5 IC 4-13-2-14.7 IC 4-15-2.2-10 IC 4-15-2.2-15 IC 4-15-2.2-30 IC 12-24-3-2 IC 22-5-1.7 IC 20-26-5-10 & 10.5 IRS Pub. 1075 Arrests & Convictions Policy

PURPOSE

The State of Indiana seeks to recruit and hire the best-qualified applicants and complies with all applicable federal, state, and local laws in its recruiting and hiring practices.

SCOPE

This policy applies to all state agencies with employees in the state civil service. It is recommended that other state agencies also adopt this policy and use, at a minimum, the basic background check through the State's third party administrator.

POLICY STATEMENT

The State of Indiana is committed to providing the public with qualified staff who possess good character and standards. This policy will provide basic processes and safeguards to meet that commitment and assist in maintaining a safe work environment for employees, clients, and customers of state agencies.

DEFINITIONS

Adverse Action: An employment action taken based on the content of a consumer report that is not favorable to an applicant.

Arrest: The taking of a person into custody, that s/he may be held to answer for a criminal charge. Arrest(s) noted on criminal history checks may be considered only if the charge(s) are still pending at the time of the employment decision.

Background Checks refers to the following checks: Employment verification, Educational verification, License verification, Tax payment check, Reference check, Past employment check, Criminal history



check, Sex Offender Registry check, Court records check, Motor vehicle check, Credit history check, National criminal history database check, and/or use of the federal eVerify program.

Consumer Report: A report compiled by, or received by the employer from, a consumer reporting agency. A consumer reporting agency is any entity that collects or disseminates information about consumers to be used for credit evaluation and other purposes, including employment. Examples of consumer reports may include credit reports, criminal history checks, and driving records.

Conviction: A judgment on a verdict or a plea of guilty or *nolo contendere*, and/or a finding of guilt substantiated by the evidence which results in the payment of fines, forfeiture of collateral or bond, restitution, deferred adjudication or sentencing, probation, confinement, suspended sentence, pre-trial diversion agreement, or any other penalty imposed by a court of law or agreed upon by the accused for a crime, i.e., a felony or misdemeanor for which a person might be imprisoned.

Court records check: Checking civil and criminal court records in jurisdictions where the applicant has lived, worked, or attended school to determine any criminal history or civil judgments.

Credit history check: Checking for information about credit cards, loans and other debts, and payment history. The existence of bankruptcy or garnishment proceedings cannot form the basis of an adverse action.

Disposition: Process to remove and notify the candidate that they have been removed from consideration for the position.

Educational verification: Telephone contact or written verification to ensure that the applicant possesses all educational credentials on application/resume.

Employment verification: Ensuring that the applicant actually worked

1. all positions listed on the application/resume that qualify the individual for the position sought; and
2. all substantive employment during a period of at least five (5) years immediately preceding application.

Verification should include dates of employment, reasons for leaving, and an explanation for any periods of unemployment.

eVerify program: The electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly-hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

Federal Criminal History Records Information (CHRI) check: A nationwide criminal history database, access to which is limited by federal and state statutes. Under current law, applicants may obtain information on themselves from this data source. Criminal justice agencies and gaming and horse racing regulators have access to this information for employment purposes. Employees or volunteers who have contact with children are also eligible for these nationwide checks. See procedure attached to this policy. See also IC 10-13-3.

Fingerprint check: See Federal Criminal History Records Information (CHRI) check.



License verification: Confirmation that the applicant possesses all the licenses on application/resume or otherwise necessary for position and determining the disposition of any proceedings against the license.

Motor vehicle check: BMV makes driving record information available online through www.in.gov to determine an applicant's driving record and status.

NEFR: NEFR is an abbreviation embedded in the PeopleSoft computer program, as delivered by the vendor. The literal translation (i.e., "Not Eligible for Rehire") is generally a misnomer. The only time an individual is actually "not eligible for rehire" is when that determination has resulted from adjudication of a violation by the State Ethics Commission. [See IC 4-2-6-12((7)).] NEFR generally means there is a legal basis for a decision maker to deny reemployment (e.g., IC 4-15-2.2-30 or 31 IAC 5-12-4), even though the decision to invoke the exclusion is discretionary. Among the State's human resource professionals, the NEFR code is understood to be a flag in the computer system that puts the decision maker on inquiry notice. There is something in the individual's State employment history that may be a legitimate basis for exclusion from consideration; and, those facts must be researched before an informed decision can be made about exercising the discretion to rehire. The NEFR designation is not revealed in response to a reference checks from a prospective employer, other than the State of Indiana. [See IC 5-14-3-4(b)(8).]

Nexus: The following factors may be considered in determining whether pending charges or convictions have a nexus to the employee's duties and responsibilities:

- the facts and circumstances, including the nature and seriousness of the offense;
- the number of offenses for which the individual was convicted;
- sentence imposed;
- other convictions/infractions;
- specific proscription in Indiana Code;
- effect on any license which is requisite to performance of the job;
- risk of recidivism, reasonable inferences about problems with self-control, propensity for violence, honesty, or dependability;
- erosion of confidence in or impugning the reputation of the individual or agency;
- objections the victim/citizen may have to being the perpetrator's employer;
- the offender's age at the time of conviction and age when released from incarceration;
- the time elapsed since the offense occurred, conviction and/or completion of the sentence;
- the nature of the job held or sought;
- the length and consistency of employment history before and after the offense;
- whether the offender performed the same type of work, post-conviction, with no known misconduct;
- rehabilitation efforts undertaken (e.g., education & training);
- employment or character references; and
- any other information regarding fitness for a particular job.

Reference check: Contacting the references provided by the applicant.

Past employment check: Contacting the applicant's prior employers to inquire about the nature and details of the applicant's employment with that employer.

Person with a conditional offer of employment: An individual who is tentatively selected for a position. The term includes current employees who are (1) transferring, demoting, or promoting from one classification to another within the same state agency and/or (2) transferring, demoting, or promoting from one position to another in different state agencies.



Sex Offender Registry: Pursuant to IC 36-2-13-5.5 the Indiana Sex and Violent Offender Directory database, which is accessible on the Internet through www.in.gov, contains information on persons convicted of certain sex and violent crimes. See also IC 11-8-8 et seq.

State criminal history check: The most basic check on arrest(s) or criminal conviction(s) is the state criminal history check provided by the Indiana State Police. This check is limited to Indiana criminal history and can only discover the data that has been provided by local law enforcement agencies. It is available online. For especially sensitive positions, agencies may check court records in every jurisdiction where the applicant has lived, worked, or attended school. State agencies may also require applicants to secure and provide their state criminal history checks. Arrest(s) may be considered only if the charge(s) are still pending.

Tax payment check: The Indiana Department of Revenue will provide information to state agencies as to whether an applicant is current in payment of state taxes.

RESPONSIBILITIES

Applicants:

- Apply to position of interest with accurate information about background, work experience, and education. (All applicants for a posted vacancy will be considered based on their qualifications and ability to perform the job successfully.)

Hiring Managers:

- Create a personnel requisition to request permission to fill a vacancy;
- Review candidate applications, resumes and other documentation provided by candidates;
- Conduct interviews of qualified applicants to finalize candidate selection process;
- Save or upload interview notes into recruiting system;
- Enter a disposition for non-selected candidates;
- Submit to the appropriate authority information about the position being filled so the appropriate background checks can be performed;
- Check personal references provided by the applicant when necessary for the position – this practice should be consistent for each position;
- Update the Hiring Manager portions of SuccessFactors in a timely and accurate manner for all hiring events;
- Provide verbal contingent offer (based on a successful completion of a background check) to selected target candidate; and
- Provide verbal formal offer to selected candidate after offer approval, background check, and verifications processes have been completed and reviewed by HR.

Agency HR Offices:

- Review, approve, send requisition to Budget Agency for approval (if required) or to Recruiter for posting;
- Review candidate applications, resumes and other documentation provided by candidates;
- Ensure PeopleSoft® records are accurate and the code NEFR is used only for reasons provided by law (e.g. IC 4-15-2.2-30 and 31 IAC 5-12-4);
- Initiate the offer approval process;
- Submit to INSPD all background check information to complete licensure, education, employment (including State of Indiana agencies where candidate previously worked), and criminal history verifications;
- Conduct fingerprint checks for appropriate positions;



- Use the eVerify program to verify the work eligibility status of all employees of the state agency hired or rehired after June 30, 2011;
- Review offer approval and all background checks and verifications to ensure an offer is appropriate;
- Provide adverse action notices in appropriate situations within required time limits; and
- Maintain records of background check results in a secure and appropriate manner and in accordance with applicable records retention schedule(s);
- Gather I-9 form from applicant;
- Obtain personnel file and interim appraisal from prior agency if applicant has previous SOI work history;
- Ensure application information for new hires successfully transitions to hired status; and
- Notify payroll if the applicant is a current SOI employee who is not on the Auditor's system.

Talent Acquisition Division:

- Consult with agencies and HR staff to understand the needs of the agency as it relates to identifying qualified applicants and selection of the best qualified applicant;
- Creatively source and advertise state positions;
- Supporting agency workforce plans through collaboration with HR staff and Hiring Managers;
- Review and approve personnel requisitions;
- Add and require all core State of Indiana screening questions;
- Add position specific screening questions;
- Post position to allow candidates to apply to position;
- Periodically, at a period established by the Talent Acquisition Director, delete requisitions that were created by Hiring Managers but not sent for approval to HR within 30 days;
- Cancel requisitions that have been open for 90 days or more without a hiring action following confirmation with HR that no hiring action is intended; and
- Review candidate applications, resumes and other documentation provided by candidates.

Agency Policy Makers, or their designees:

- Determine the types of background checks required for each position under the agency's authority;
- Draft an agency-specific policy that complies with the provisions of IRS Pub. 1075 (if the agency has employees with access to federal tax information as defined in that publication) to the extent permitted by the FBI; and
- Draft an agency-specific policy that complies with the provisions of HEA 1079-2017, and IC 20-26-5-10 & 10.5 if the agency employs teachers or individuals in a school setting for children.

State Personnel Department:

- Confirm state agencies appropriately use the proper requisition processes to fill vacancies;
- Ensure that inquiries about criminal history are not made on the application unless a law precludes employment in a particular job because of a specified conviction;
- Submit names of all new and rehires to Department of Revenue for check of state tax payment;
- Conduct past employment check, employment verification, and professional reference checks with applicant's previous employers, covering at least the past 5 years;
- Verify licensure, education, employment, and criminal history information, attaching documents within the State's hiring system, and processing candidates for the next stage for hire; and
- Perform, or contract the performance of, required background checks on all positions appointed by the Governor.



PROCEDURES

Process for Advertising Vacancies

1. Hiring Managers will initiate a personnel requisition requesting to fill a vacancy. Personnel requisitions must include the following information:
 - a. Job Code of the vacant position
 - b. Agency HR Representative
 - c. Recruiter Representative
 - d. Hiring Manager Representative
 - e. Budget Agency justification for filling the position (if required)
 - f. Position Number (if known)
2. Agency HR Office reviews, edits (as needed), and approves personnel requisition by forwarding to next approving party (i.e. depending on requisition type either Budget Agency or Recruiter);
3. Recruiter reviews, edits (as needed), and provides final approval for personnel requisition;
4. Recruiter adds required and optional screening questions;
5. Recruiter posts position for candidates to apply; and
6. All parties involved in the hiring process will work judiciously and effectively throughout the hiring process to select talent and fill the position in a timely manner.

Selection Procedure

1. The Hiring Manager, Agency HR, and Recruiter will review candidate applications, resumes and other documentation provided by candidates as necessary to facilitate an effective and efficient selection procedure. All applicants for a position must be screened using the same criteria.
2. The Hiring Manager will conduct interviews of qualified applicants. Any candidate selected to be interviewed should have completed the State of Indiana application prior to interviewing. It is recommended to use behavioral based interview questions around the position's competencies found in the job profile.
3. Then, the Hiring Manager will provide the selected applicant with a verbal offer contingent upon a satisfactory background and verification process.

Background Process

1. Agency HR office begins the offer approval process, background check process, and will initiate the verifications process (all 3 processes run concurrently).
 - a. All persons accepting conditional offers of employment for positions will complete a background check in the following circumstances:
 - i. New Hire
 - ii. Rehire
 - iii. Promotion
 - iv. Changing Agencies

In the hiring agency's discretion, a background check need not be conducted if a background check has been completed on the candidate within the past year.

- b. Agencies must determine the level of background check for each type of position to be filled. The following elements must be considered in background checks as appropriate for each agency:
 - i. All persons accepting conditional offers of employment for positions working directly with vulnerable populations shall be subject to the highest level of criminal history check available under the law, utilizing the federal and state Criminal History Records Information (CHRI) system. Positions falling into this category include, but are not limited to, direct care workers in state-operated facilities for children and/or vulnerable adult populations under Family & Social Services Administration, Department of Veterans Affairs, Indiana School for the Deaf, and Indiana School for the Blind/Visually Impaired as well as those working with



- juveniles such as family case managers in the Department of Child Services, and employees in juvenile facilities operated by the Department of Correction. All of these persons should be subject to the CHRI check, past employment, Sex and Violent Offender Registry, and any other checks the agency determines are appropriate. IC 12-24-3-2 lists convictions that disqualify a person from working in a state institution under the authority of the Family & Social Services Administration/Division of Mental Health and Addiction, and IC 4-13-2-14.7 lists convictions that disqualify a person from working around children.
- ii. All persons accepting conditional offers of employment for positions that authorize disbursements or have access to personal, private information shall be subject to additional background checks commensurate with their responsibilities such as criminal history checks.
 - iii. All persons accepting conditional offers of employment for positions as a teacher or other school employee who is “likely to have direct, ongoing contact with children within the scope of the individual’s employment” shall be subject to expanded criminal history checks, expanded child protection index checks, and employment reference checks as set forth in HEA 1079-2017, and IC 20-26-5-10 & 10.5. Such checks must be completed every five (5) years during the person’s employment in a covered position.
 1. All school employees employed as of July 1, 2017, must have expanded criminal history checks and expanded child protection index checks completed within five (5) years. Those checks may be completed by annually checking at least 1/5th of the total number of employees of the school.
 2. No applicant or employee may be required to obtain expanded criminal history or expanded child protection index checks more than once in five years, unless the applicant or employee (1) is the subject of a substantiated report of child abuse or neglect; or (2) has been charged with or convicted of a crime listed in IC 20-26-5-8(c).
 - iv. All persons accepting conditional offers of employment for positions which have access to Federal Tax Information (FTI) shall be subject to additional background checks in accordance with the requirements and time frames in IRS Publication 1075, to the extent permitted by the FBI. Such checks must be completed every ten (10) years during the person’s employment in a covered position.
 - v. All persons accepting conditional offers of employment for Agency Head positions shall be subject to the following checks, which will be performed by State Personnel Department or designee: Executive Check: (1) state criminal history check for employment purposes; (2) credit checks; (3) licensure checks; (4) verification of state tax payment; (5) motor vehicle record check; (6) Sex Offender Registry check. Each agency must review its policy to determine which of the above-defined checks are appropriate for other levels of management based on each manager’s responsibilities.
 - vi. It is recommended any position with financial responsibilities select a background level package that includes a credit check.
 - vii. It is recommended that any executive level position use the Executive Check background check package.
- c. INSPD’s Verifications team will complete the following procedures unless instructed by agencies:
- i. Education: Education beyond high school will be verified;
 - ii. Work History: Previous 5-years will be verified unless applicant is a candidate for a Nursing or Teaching position—candidates for Nursing and Teaching positions must



- have all employment as a licensed nurse or teacher verified (and such verification may also be conducted by field HR staff); and
- iii. Required Licensures.
 - d. The Department of Administration requires assurances in its Quantity Purchase Agreements (QPA) for temporary personnel that the backgrounds of those temporary personnel do not reveal relevant past criminality or dishonesty. Agencies should restrict temporary personnel's access to sensitive information commensurate with the assurances provided on the QPA. In addition, agencies should not utilize the services of contractual personnel who do not satisfy the agency's criteria for employment.
 - e. No one may be hired in to a position where there is a law which precludes that person's employment based on a conviction for a particular crime.
 - f. In the absence of a statutory proscription as described in paragraph e above, the agency, in concert with HR, shall use the factors defined above to assess the background check results of a person with a contingent offer of employment and determine whether or not a nexus exists to the particular job. Positions subject to the checks listed in paragraphs 1.b. above must be assessed for nexus in accordance with the factors identified in the policies of the affected agencies for those positions.
 - g. Credit history check may be used only where there is a business necessity.
 - h. The Fair Credit Reporting Act (FCRA) requires a separate written notice and authorization before a consumer report from a consumer reporting agency can be procured. If the employer proposes to deny employment or otherwise adversely affect an employee based on any information contained in a consumer report, the employer must make adverse action disclosures, which includes:
 - i. Before the adverse action is taken, the person must be provided a "Pre-Adverse Action Disclosure Statement" which includes:
 1. A copy of the consumer report;
 2. "Summary of your rights under the FCRA;" and
 3. 5 days for the applicant to dispute the report.
 - ii. After taking adverse action, the applicant must be provided an "Adverse Action Notice", which includes:
 1. Notice of the action;
 2. Name, address, and phone number of the Consumer Reporting Agency (CRA) supplying the report;
 3. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken; and
 4. Notice that the person may dispute (with the consumer reporting agency) the accuracy or completeness of the information, and a right to an additional free credit report within sixty (60) days.
2. An agency may not discriminate against an applicant or employee because of bankruptcy nor can an employee be discharged for garnishment proceedings.

Final Offer

1. After offer approval, background check, and verifications have been reviewed by Agency HR, Hiring Managers may provide the verbal formal offer to the selected candidate. Agencies should consider the best ways to onboard a new employee to the State's culture, including by assigning a buddy or mentor to assist.
2. Hiring Managers should disposition the remaining candidates on the requisition before notifying Agency HR to send the written formal offer to the selected candidate; and
3. Agency HR initiates the written formal offer and prepares the candidate for hire.



FORMS

Applicant Disclosure and Release

Applicant Background Record Checklist

Guidelines for Verification of Licensure, Education, and Experience