



PERSONNEL RULES AND REGULATIONS

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Section 1: Introduction

Sarpy County in an effort to protect the general public, safeguard current and future employees, and shelter its assets shall perform non-employee, pre-employment background checks as an important part of the selection process. Background checks will not be required for existing employees unless job-related reasons arise which require their completion. The PRR ensures that pre-employment background checks comply with applicable state and/or federal laws.

Section 2: Background Checks

Written notification of the requirement to successfully pass background checks shall be stated in the job posting and/or at the time of interview.

Sarpy County will comply with the Fair Credit Reporting Act (FCRA). This Act applies to all background checks, such as education verification, driving records, credit reports, and other job-related records that are conducted by a third party. The FCRA requires that job applicants grant permission as well as acknowledge that information obtained may be used to make an employment decision. Third party background check(s) shall not be completed until the candidate's written authorization is received by the Human Resources Department.

The background information obtained shall not be used to discriminate on the basis of race, color, religion, national origin, sex, age, disability, genetic information, disabled veteran, Vietnam era veteran, or any other legally protected group.

The County may utilize a variety of background checks dependent upon the job requirements. Any of the following background checks may be conducted:

- Employment reference,
- Criminal background check,
- Sex offender registry,
- Education verification,
- Physical examination,
- Professional licensure verification,
- Credit check, and/or
- Other job-related verification.



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A favorable background check is defined as one that does not indicate any detrimental record, informational inaccuracies or discrepancies, or any other job-related concerns.

Background checks will be conducted in the final stage of the Selection Process or upon a conditional job offer depending upon the specific job. If background checks cannot be completed prior to the candidate's date of employment, they shall be completed on the first day of employment. If completed after the selected candidate begins employment, unfavorable background information may result in the termination of employment.

Newly hired employees shall comply with provisions of the Immigration Reform and Control Act of 1986 as well as the Nebraska New Hire Act or forfeit their position.

Emergency Appointment Exception: To avoid delaying the employment of an emergency appointment, background checks will be completed as soon as possible after the employee's date of employment.

Section 3: Background Check Process

- A. To be considered for employment, all candidates on the Eligible List must complete a Background Check Consent Form prior to the County conducting any pre-employment background checks,
- B. Job offers shall be made "contingent upon successful completion of background checks,"
- C. Candidates that provide false or misleading information in their application and/or pre-employment documents may be disqualified from further consideration,
- D. Having adverse results does not automatically preclude a candidate's eligibility for employment,
- E. All reports shall be individually reviewed by the Human Resources Department and decisions made with respect to employment based upon the totality of the candidate's qualifications as well as the results of the pre-employment background checks,
- F. In general, Human Resources' review of the relevance of a particular pre-employment background check to a candidate's eligibility for employment is based upon the following factors:
 - The nature and gravity of the unfavorable report,
 - The time that has passed since the event, and



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- The nature of the job held or sought, and
- G. Prior to taking any adverse action, appropriate pre-adverse and adverse action notices shall be sent by the Human Resources Department to candidates pursuant to federal and/or state laws together with a copy of the third-party reporting agency's background report, where applicable.

Section 4: Criminal Background Check

Criminal conviction information will be used solely for the purpose of evaluating a candidate(s) under final consideration for employment.

In order to be considered for employment, candidates shall provide information about any criminal conviction records during the final selection stages. For purposes of this Regulation, evidence of criminal history includes any conviction or plea of guilty or a plea of no contest.

Any candidate who refuses to consent to the required criminal background investigation; refuses to provide information necessary to conduct the background investigation; or omits, conceals, and/or provides false or misleading information in regard to the criminal background investigation shall be disqualified from further consideration for the position to which they applied.

In reviewing the results of a criminal background check, the Human Resources Department will review each candidate's report considering the following factors to determine whether there is a substantial relationship/correlation between the criminal record and the job's requirements:

The Offense: The nature, severity, and intentionality of the offense(s) including, but not limited to:

- A. The statutory elements of the offense (rather than the candidate's account of the facts of the offense),
- B. The candidate's age at the time of the offense(s),
- C. The number and type of offenses (felony, misdemeanor, traffic, other),
- D. The time elapsed since the last offense,
- E. The candidate's probation or parole status,
- F. Whether the circumstances arose out of an employment situation, and



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G. Whether there is a pattern of offenses.

The Position: The duties, responsibilities, and circumstances of the position applied for including, but not limited to:

- A. The nature and scope of the position, including access to facilities, cash, and to vulnerable populations, such as minor children,
- B. The nature and scope of the position's interpersonal contact,
- C. The nature and scope of the position's autonomy and discretionary authority,
- D. The amount and type of supervision received or provided to subordinate staff,
- E. The sensitive nature of the data or records maintained or to access of those records,
- F. The opportunity presented for the commission of additional offenses, and
- G. The extent to which acceptable job performance requires the trust and confidence of the County or the public.

In accordance with federal and/or state laws, a previous conviction will not automatically disqualify an individual from consideration for the position.

Subsequent Criminal Convictions: In the event that the external candidate receives a criminal conviction that does not appear on a pre-employment criminal background check, the candidate shall notify the Human Resources Department or the appointing authority immediately. The Human Resources Department along with the appointing authority will determine whether or not the conviction is relevant. If the conviction is not relevant, no adverse action will be taken. If the conviction is relevant, employment may be terminated or the candidate may not be hired. Any final candidate failing to notify the Human Resources Department or the appointing authority about a "subsequent criminal conviction" that proves to be job-related shall be terminated.

Section 5: Credit Check

The credit check will be completed by the Human Resources Department and only conducted where a bona fide job-related element exists. Having adverse credit, such as a judgment, lien, derogatory accounts, or bankruptcy does not automatically exclude a candidate's eligibility for employment. Every candidate's credit report will be considered individually.

Job elements to determine the need for credit check include, but are not limited to:



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- A. Access to or responsibility for handling cash, checks, credit/debit cards, or cash equivalents,
- B. Access to secured data bases,
- C. Access to the payroll system and/or payroll information,
- D. Access to or permanent retention of confidential information,
- E. Access to social security numbers,
- F. Involvement in any employment investigation,
- G. Providing care and/or supervision of minors,
- H. Positions with limited supervision and/or oversight,
- I. Conduct that bears significantly on the County's reputation,
- J. Access to or responsibility for data systems/networks whose unauthorized access/modification could adversely affect the County,
- K. Ability to commit County funds through contracts/purchase orders,
- L. Responsibility for invoice approval and payment/expense reimbursements,
- M. Access to buildings with master keys, and
- N. Regular operation of County-owned vehicles.

Factors to be taken into consideration in reviewing a credit report include, but are not limited to, monetary judgment(s), dollar amount of judgment(s), number of derogatory accounts, dates of derogatory accounts, credit score, number of inquiries, etc.

Additionally, consideration shall be given to whether or not the candidate's personal financial standing will interfere with his/her ability to perform the job duties or increase the likelihood that defalcation (i.e. misappropriation of funds and/or assets) may occur. Extenuating circumstances such as illness, divorce, or other family-related problems will be taken into consideration.

If adverse action is taken on the basis of a third-party reporting agency, the Human Resources Department shall notify the applicant of the adverse action and shall provide the candidate with a "Statement of Consumer Rights" as required by the FCRA.

Section 6: Reference Check



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Reference checks may be conducted on final candidates verifying the accuracy of their credentials. To comply with federal and state statutes, the type of information that will be collected includes, but is not limited to, prior employment, education, attendance record, character, reputation, or other job-related items. Reasonable caution shall be exercised when interpreting reference data to ensure compliance with anti-discrimination laws.

References may be completed by the Human Resources Department prior to employment. If a decision is made not to contact references, the specific reason shall be documented by the Human Resources Department within the candidate's online employment application.

Section 7: Pre-employment and Post-employment Substance Abuse Screens

All candidates (including emergency, provisional, seasonal, temporary appointments and rehired employees) shall be required to complete a pre-employment substance abuse screen. The screen will be performed by the County's official testing facility. The Human Resource Department shall schedule the substance abuse screen prior to employment or on the employee's date of employment.

If the candidate fails the substance abuse screen, the candidate shall be permitted an opportunity to submit relevant medical information pertaining to the failed results. Candidates have 72 hours to contact the County's authorized testing facility.

The Human Resources Department will oversee ongoing random testing for those employees who are required to submit to such testing as required by state or federal law, such as Department of Transportation requirements.

Section 8: Physical Exams

For certain jobs, the County shall require job-related physical examinations. The examinations will only be scheduled after a conditional job offer has been extended and accepted by the final candidate in compliance with the Americans with Disabilities Act. The County reserves the right to require physical examinations (fitness for duty exams) when there is a need to determine whether an employee is still able to perform the essential functions of the job or for concerns regarding the safety and protection of the employee or others.



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Based upon the job, the Human Resources Department shall utilize a third-party medical provider to determine the standard criteria for physical examination.

- A. The Human Resources Department shall schedule physical examinations and communicate the overall outcome (pass or fail) to the appointing authority.
- B. Final candidates who successfully meet the physical requirements as well as other background checks may be hired.
- C. If the physical examination results in an unfavorable outcome, the Human Resources Department will notify the appointing authority.

Disqualification from the job offer shall be job-related and consistent with business necessity, including, but not limited to, failure to meet the physical requirements, inability to perform the essential functions with or without accommodation, posing a direct threat to the safety of the employee or others, or if accommodations would place an undue hardship on the County.

Section 9: Candidate Notification of Adverse Results

The Human Resources Director shall notify the appointing authority (and where necessary legal counsel) of adverse background check results. The Human Resources Director shall discuss the information with the appointing authority. Once results are evaluated, a determination shall be made whether to withdraw the conditional offer of employment. If a conditional offer of employment was extended, the appointing authority shall call the final candidate(s) and withdraw the job offer. If a conditional offer was not yet completed, the Human Resources Department shall notify the candidate of the unfavorable result. The Human Resources Department will send any applicable notices and report copies in accordance with the Fair Credit Reporting Act (FRCA).

Challenging the Accuracy of a Background Record: Final candidates who dispute or contest information provided by a third-party reporting agency must contact the applicable agency. It is the candidate's responsibility to challenge the report and arrange for any corrections within 15 calendar days.

Section 10: Record Keeping and Maintenance

Background checks and employment screening information is considered sensitive and confidential. Overall results will only be released by the Human Resources Department



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to the appointing authority if there is a potential concern about the results in relation to the performance of the essential functions of the job.

Background checks conducted by the Human Resources Department and/or the Sheriff's Office shall be considered part of the candidate's employment record, and therefore, will be retained in the Human Resources Department in accordance with applicable state and federal law.

If candidates are hired, background check results will be filed in and become a permanent part of the employee's civil service file unless they involve a third-party reporting agency in which case the records will be destroyed once the employment decision occurs, in accordance with the FCRA. Disposal methods include shredding paper documents and destroying or erasing electronic information so that the documents cannot be read or reconstructed.

Section 11: Disclaimer

It is not the purpose of this Regulation to establish an organization-wide standard for background checks and pre-employment screens. Every case must be decided on its own merit subject to the requirement that all candidates be treated equally and consistently. Any questions regarding this Regulation should be addressed to the Human Resources Director.