



## Background Check Policy

### Purpose

The intent of this Background Check Policy is to provide uniform guidelines and procedures for conducting criminal background checks on candidates selected to fill a vacant position at the Ohio Department of Agriculture (ODA). The background check process is intended to help ODA evaluate whether a candidate is suitable for a position. ODA desires to promote fair and consistent methods to obtain, analyze, apply, and retain background check information, while preventing discrimination and harassment in hiring practices.

### Scope

This policy is applicable to all current and prospective ODA employees, unless conflicting provisions exist within the collective bargaining agreement applicable to bargaining unit employees. In the event of conflicting policies, the provisions of the collective bargaining agreement shall control to those applicable employees.

### Procedures

#### **A. Use of Background Checks**

Background checks must be conducted on internal and external final candidates for the following positions:

1. Fulltime exempt and non-exempt employees and staff; and
2. Temporary, interim, seasonal and intermittent appointments (excluding summer and ODA University interns).

Internal candidates who have had a background check through ODA within the past 12 months are not required to have a new background check unless additional searches are required by position description requirements. The additional searches must be conducted at the time of the transfer. Hiring divisions should review the previous background check results in relation to the position for which the candidate is being considered.

Employees who have a break in service and return to ODA must have a background check if the position requires one. Candidates granted a visa with a U.S. Department of State, Bureau of Consular Affairs, and have undergone a background check for that agency are not required to have an additional criminal search in their home country. A U.S. search must still be conducted and submitted by the individual seeking employment.

#### **B. Administration of Background Checks**

1. Candidates shall be informed of the requirement to complete a criminal background check at their initial interview and must indicate their consent prior to completion of the background check. Failure to provide consent will preclude a candidate from consideration.
  - i. Internal and external applicants may voluntarily disclose all criminal convictions when they apply;
2. Background checks shall be conducted upon selection of the candidate for a vacant position prior to the candidate's first day of employment or employee rehires, promotions, demotions, or transfers. Human Resources shall conduct the background check through the Ohio Attorney General's Bureau of Criminal Investigation Identification Division.



3. ODA shall pay for candidates' initial criminal background check for the purpose of employment. However, if a candidate or current employee contests the results of the background check & requests for a second check, the candidate or employee will pay.
4. All offers of employment, including promotions, demotions, or transfers are contingent upon successful completion of the background check and all written or oral offers of employment must state: "This offer is contingent upon the ODA's verification of credentials and other information required by law and/or ODA policies or practices, including but not limited to a criminal background check."

### **C. Assessment of Background Check Information**

1. Offenses/Convictions on a candidate's criminal history record will be reviewed considering the following factors:
  - i. Severity and nature of the offense or conviction;
  - ii. Whether there are multiple similar convictions that could indicate an ongoing pattern of behavior;
  - iii. Time that has passed since the offense or conviction;
  - iv. Employment history since conviction or other information;
  - v. Relevance of the offense or conviction to the job held or sought;
  - vi. Relevance of the offense or conviction, e.g. of a violent nature, to the safety and welfare of individuals including employees and the general public or the safety of property;
  - vii. Whether the conviction precludes the candidate from employment based on federal or state laws and regulations; and
  - viii. Any mitigating factors, including evidence of rehabilitation.
2. Candidates shall be informed of the offenses or convictions by providing a copy of their results and a copy of the Summary of Your Rights under the Fair Credit Reporting Act. Candidates may be given an opportunity to provide written clarification or additional information. A criminal conviction is not necessarily a total bar to initial or continued employment, but instead requires additional assessment by ODA as provided in this section.
3. Any listed offense or conviction that occurred within 5 years of the criminal history check shall automatically be reviewed. An arrest without a conviction in a closed case will not be considered.
4. Open criminal cases may preclude a final candidate from eligibility for employment. ODA will assess the circumstances surrounding the arrest, as well as the time frame, nature, gravity and relevance of the charge to the job duties. Human Resources, in consultation with the Legal Division, is ultimately responsible for determining whether the final candidate is eligible for employment.



5. Any candidate that has not been selected to fill a vacancy and/or is barred from future consideration for employment as a result of their criminal background check will be notified in writing as provided in Section E below.
6. All information received in connection with the background check process will be treated with discretion and shall be disclosed only as necessary or as otherwise required by law.

**D. Talking with Candidates about Criminal Convictions**

Internal and external applicants are required to disclose criminal conviction information as part of the application process.

1. If an applicant discloses criminal conviction information during the application process, Human Resources staff assigned by the Chief of Human Resources should follow up with the applicant if there are questions prior to an offer of employment.
2. Human Resources staff should ask the candidate if there are other criminal convictions not listed on the application and discuss the details with the candidate.
3. If a candidate’s criminal record was expunged, no further questions should be asked about it as it cannot be taken into account regarding the candidate’s employment.
4. Human Resources staff must include any negative information provided by final candidates not included on the job application which a background check may disclose in the candidates file.
5. Discriminatory questions are strictly prohibited. Examples of appropriate and inappropriate questions are:

Appropriate Questions	Inappropriate Questions
<b>Can you tell me about the circumstances surrounding the conviction?</b>	Have you ever been arrested?
<b>What was the official offense you were convicted of?</b>	Was this the first/only time you were arrested?
<b>When and where were you convicted of this offense?</b>	How drunk were you? Do you have a problem with alcohol/drugs?
<b>Are there other convictions not listed on your application or disclosure form?</b>	How old were you when you were arrested?

**E. Determination**

Background checks with criminal offenses will be reviewed by Human Resources Chief or their designee in consultation with the Legal Division. All criminal background check information is confidential and cannot be disseminated beyond relevant agency staff.

Any candidate that is screened out of the posting process or an employee which is flagged as a result of their criminal history record will be reviewed and assessed on an individual basis. Applicants who are excluded from employment due to his/her criminal history record and who believes the decision was made utilizing erroneous or incomplete information, shall have the right to review the report and offer an explanation within 15 days of receiving notice from the agency.

In addition, and at the agency’s discretion, the candidate may be extended additional time beyond the 15 days to obtain and provide an explanation and/or additional information to dispute the record. At the end of the



additionally provided time, Human Resources will verify any disputed criminal report and conduct a new assessment based on any new and relevant information provided.

**Contact**

The Human Resources Office and Legal Division are available for consultation or questions regarding the Background Check Policy.

This Policy supersedes any previously issued policy or directive and will remain effective until cancelled or superseded.

**Revision History**

<b>Date</b>	<b>Description of Change</b>
7/2015	Initial Policy Issued

