

AGENCY BACKGROUND CHECK POLICY TEMPLATE

AGENCY NAME_____	DIVISION/STAFF RESPONSIBLE: (e.g. Internal Affairs/Affirmative Action/HR)
POLICY NUMBER_____	DATE POLICY ESTABLISHED/REVISED_____
SUBJECT: Employment Background Checks	

PURPOSE

Background checks are conducted to support workplace productivity, safety and security by ensuring applicant backgrounds and qualifications are suitable for the position being considered and the public trust inherent in State employment.

POLICY

It is the policy of _____ (AGENCY NAME), as part of its hiring procedures, to conduct background checks on finalist(s) for all positions within the agency. These checks will be job-related, consistent with business necessity and conducted pursuant to all applicable laws, rules, policies and procedures. Background checks may include, but are not limited to, an analysis of public and private documents; contact with former employers; verification with educational institutions or licensing/credentialing boards; information from background check providers; contact with professional references; and other pertinent information and resources.

Employment offers will generally be made after successful completion of applicable background check(s). However, any offers of employment made prior to completion of the background check(s) shall be contingent upon successful completion of the check(s). Finalist(s) may be rejected if they provide inaccurate, untruthful information, don't fully participate in a required background check, or don't sign or complete a required form.

Required Background Checks

_____ (AGENCY NAME) will conduct the background checks listed within this section on finalist(s) for all positions. The agency will:

- A. (STATEWIDE REQUIREMENT) Verify all job-related information pursuant to Minnesota Rule 3900.7500 (e.g. licenses and certifications required as a minimum qualification for the position, etc.)
- B. (STATEWIDE REQUIREMENT) Conduct driver's license and records checks on the finalist(s) and incumbents of all positions determined to be covered by the Statewide Policy on Driver's License and Record Checks. **Note: if not applicable to the agency, delete from policy template.**
- C. (STATUTORY REQUIREMENT) Conduct all agency-specific statutorily required background checks. **Note: if not applicable to the agency, delete from policy template.**
- D. (RECOMMENDED STATEWIDE - FOR AGENCY TO ANALYZE AND DECIDE) Conduct an employment reference check by contacting the finalist's current and former supervisors and Human Resources office(s) for the past three positions held or the past ten years of employment, whichever is greater. Follow the requirements contained in PERSL #1414 for conducting background checks on current and former state employees, including a review of disciplinary

history, discharges, and performance reviews, etc. **Note: if the agency does not decide to conduct this check on all finalist(s), delete from the policy template.**

- E. (RECOMMENDED STATEWIDE - FOR AGENCY TO ANALYZE AND DECIDE.) The agency will conduct research and analysis to determine for which positions there is a job-related reason to require a criminal history check and the scope of the check. An agency may not conduct a criminal history background check until after an applicant has received an interview offer. It will conduct the criminal history background check on all finalist(s) for the position. The check should include all states in which the applicant has lived. If the criminal background check returns conviction data upon which the agency would otherwise remove the finalist from further consideration, the agency must follow the notice provisions of:
- Minnesota Statute 364 (Criminal Offenders; Rehabilitation) to determine if the finalist should be disqualified from the position. (NOTE: SOME AGENCIES ARE EXEMPTED FROM 364 AND SHOULD MODIFY THIS LANGUAGE ACCORDINGLY). This analysis includes determining if the criminal conviction directly relates to the employment sought and if the applicant can show sufficient evidence of rehabilitation. Refer to M.S. 364 for all applicable criteria and procedures.
 - If a vendor was used to conduct the criminal history background check, then the Pre-Adverse Action and Adverse Action notice provisions of the Fair Credit Reporting Act (FCRA) apply.
- Note: if the agency does not decide to conduct this check on all finalist(s), delete from the policy template.**

Additional Background Checks (DETERMINED BASED ON THOROUGH JOB-RELATED ANALYSIS)

(INSERT AGENCY SPECIFIC PROCESS HERE)

In addition to the minimum background checks described above, each position will be evaluated by Human Resources and the hiring supervisor prior to posting or recruitment. The review will determine whether a job-related basis exists, given the nature of the work and the job duties, to require additional background checks.

ROLES AND RESPONSIBILITIES

(THE FOLLOWING IS SAMPLE LANGUAGE ON ROLES AND RESPONSIBILITIES TO BE MODIFIED BY EACH AGENCY ACCORDINGLY).

Applicants

- Provide accurate and truthful information and fully participate in the background checks required by _____ (AGENCY NAME).
- Complete and sign all required release forms and return to _____.

Hiring Supervisor

- Work with Human Resources to help determine the appropriate job-related scope of background checks.
- Provide information to Human Resources concerning the specific duties of the position sufficient to make a determination regarding the job-relatedness and scope of all applicable background checks.

- Ensure that the scope of the background check is an accurate reflection of the work described in the position description for the job being filled.
- Provide Human Resources with contact information so necessary authorization and release forms can be provided to the applicant.
- (Retain if this is the agency's practice) Contact the applicant's current/former supervisors to conduct a reference check as operationally defined by the agency.

Human Resources Representative

- Consult with the hiring supervisor to determine what, if any, job-related basis exists to require additional background check(s) for a particular position based on the following:
 - Job duties and nature of the work
 - Job relatedness and business necessity
 - Consistency with positions performing comparable job duties with comparable work conditions.
- Ensure statewide and, if applicable, agency statutorily required background checks are conducted.
- Conduct all background checks not assigned to the hiring supervisor or the vendor.
- Provide the supervisor or applicant with all necessary release forms and obtain signed authorization and release documents before background checks are conducted.
- Ensure that adverse and pre-adverse action notification requirements of the Fair Credit Reporting Act (FCRA) and the notification and evidence of rehabilitation requirements of M.S. 364 are met.

Human Resources Director

- Establish standard background check procedures.
- Ensure that proper documentation is maintained regarding:
 - the job-relatedness and the business necessity of the background check(s) being conducted; and
 - decisions to remove a finalist from further consideration due to the contents, in whole or part, of a background check.
- Ensure that all background checks are conducted in compliance with laws, rules, policies and procedures.
- Assign background check roles and responsibilities to HR staff.
- Ensure that those provided access to background data have a job-related basis for the access, and their use of the data is consistent with their assigned roles and responsibilities.
- Train agency staff (HR and hiring supervisors) to conduct lawful and effective background checks.
- In consultation with the hiring manager/Division Director (and legal counsel, if necessary), make the determination of whether an individual should be removed from consideration based on job-related data obtained in the background check process. Ensure that this determination complies with FCRA, M.S. 364 and all other relevant laws and considerations.
- Ensure that background check information is stored and retained securely and in accordance with the Records Retention policy and the Minnesota Government Data Practices Act. **The agency may reference here any agency specific statute relating to data practices or retention.**

Employees

1. Inform their supervisor immediately about:
 - a. Loss of professional license or credential required for their position;
 - b. Loss of driver's license through suspension, revocation, cancellation, disqualification or expiration.

References

- MMB Statewide Policy on Employment Background Checks
<http://beta.mmb.state.mn.us/doc/hr/background/policy.pdf>
- MMB Volume 1 Guidance Document on Employment Background Checks
<http://beta.mmb.state.mn.us/doc/hr/background/vol1.pdf>
- MMB Volume 2 Guidance Document on Vendor Conducted Employment Background Checks
<http://beta.mmb.state.mn.us/doc/hr/background/vol2.pdf>
- 15 U.S.C. § 1681 et. seq., Fair Credit Reporting Act (FCRA)
- Public Law 88-352
- Title VII of the Civil Rights Act of 1964 (as amended)
- M.S. 13, Data Practices Act;
- M.S. 13C, Access to Consumer Reports;
- M.S. 16C State Procurement;
- M.S. 138.17, Subd. 7 Government Records;
- M.S. 364A Human Rights Act;
- M.S. 364, Criminal Offenders; Rehabilitation;
- MN Rules 3900.7500;
- Statewide Policy on Driver's License and Records Checks
- PERSL 1414 – Background Checks for Current and Former State Employees

Forms

- Tennessen Warning
- Applicant for Employment Consent to Release Information Form
- Telephone Reference Check
- Informed Consent for Criminal Background Check Form
- Employment Verification Form
- License/Certification Education Verification Form
- Adverse Action Letter
- Pre-Adverse Action Letter

Date this policy was last revised:	
Approved for implementation and distribution:	Commissioner's Signature _____ Date _____

AGENCY SHOULD DOCUMENT OTHER PROCESS AND PROCEDURAL CONSIDERATIONS SEPARATELY.