

State Human Resources Policy #E24-101.02

Background Checks

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

DEFINITIONS

Agency – The South Carolina Military Department/Office of the Adjutant General

POLICY

1. The South Carolina Military Department/Office of the Adjutant General (Agency) will conduct, as a minimum, a national criminal background check on all applicants who have been provisionally selected for employment or serve as a volunteer or mentor with the Agency or any of its programs.
2. The Agency will not extend a formal employment offer to any applicant, or allow an individual to serve as a volunteer or mentor, until after the Agency is in receipt of a “favorable” determination of the applicant’s background check. Individuals who require a Tier 1 Background Check with a Child Care Special Agreement Check may receive a provisional employment offer pending the receipt of the results of the Tier 1 Background Check providing all other required checks are “favorable”.
3. Initiation, Receipt and Retention
 - a. The State Human Resources Officer (State HRO) will initiate or coordinate the initiation of, receive, and/or retain records of background checks and determinations/verification memos for all Agency State employees, volunteers and mentors unless otherwise noted in this Policy.
 - b. The State HRO will initiate the nationwide background check, and check of the US Department of Justice’s National Sex Offender Public Website as required, upon notification by the Department Head or Program Manager (or their designee) of the provisional selection of an applicant for employment.
 - c. The State HRO will review and assess the information received from the background check(s).
 - (1) If the results of the background check(s) identify no issues (i.e., determined to be “favorable”), the State HRO may extend a formal offer of employment to the provisional selectee.
 - (2) If the results of the background check(s) identify issues, the State HRO will contact Department Head or Program Manager (or their designee) and review the issues.
 - (a) If after joint review, the results of the background check(s) are determined to be “favorable” by the State HRO and the Department Head or Program Manager (or their designee), the State HRO may extend a formal offer of employment to the provisional selectee.
 - (b) If after joint review, the results of the background check(s) is determined to be “unfavorable” by the State HRO and the Department Head or Program Manager (or their designee), the State HRO will contact the provisional selectee and withdraw any provisional offer.
 - (c) If the State HRO and the Department Head or Program Manager (other their designee) cannot agree on a “favorable” or “unfavorable” determination based on the information in the background check, they will submit the information to the State Chief of Staff for decision.

d. No other Agency Department, Program, organization, employee, etc. unless otherwise noted in this Policy are authorized to initiate, receive or retain records of background checks or determinations/verification memos.

e. State Guard Members

(1) The State Guard Administrative Officer (AO) or their representative will coordinate with the prospective State Guard members to gather and submit the required information to the State HRO to initiate the required background checks.

(2) The State HRO will initiate and receive records of background checks.

(3) The State Guard AO or their representative will maintain and retain the records of the background checks and determinations.

(4) The State HRO will maintain and retain a copy of the documentation authorizing the Agency to conduct the background check.

f. SC Military Museum Employees and Volunteers

(1) Due to potential contact with children, the Agency will conduct both a criminal background check and a check of the US Department of Justice's National Sex Offender Public Website for all prospective employees and volunteers of the SC Military Museum (Museum).

(2) The Director of the Museum or their representative will coordinate with the State HRO to ensure prospective volunteers complete and submit the necessary Background Check authorization forms.

(3) The State HRO will maintain and retain a copy of the documentation authorizing the Agency to conduct the background check.

(4) The Director of the Museum or their representative will maintain and retain the records of the background checks and determinations for all Museum volunteers.

g. Family & Child and Youth Programs

(1) Due to potential contact with children, the Agency will conduct both a criminal background check and a check of the US Department of Justice's National Sex Offender Public Website for all prospective State employees of the Family Programs and Youth Programs.

(2) The State HRO will maintain and retain a copy of the documentation authorizing the Agency to conduct the background check.

h. STARBASE Program

(1) In addition to conducting a national criminal background check for all prospective/provisional employees, employees, volunteers and/or mentors for the STARBASE Program, the State HRO will:

- Conduct a check of the US Department of Justice's National Sex Offender Public Website
- Coordinate with the SCANG Information Protection Section (STARBASE Program) to initiate a Tier 1 Background Check to include a Child Care Special Agreement Check of the FBI fingerprint database

(2) The STARBASE Program Director or their representative will gather and submit the required information to the SCANG Information Protection Section to initiate the Tier 1 Background Checks with Child Care Special Agreement Checks.

(3) The SCANG Information Protection Section (STARBASE Program) will provide the State HRO with a verification memo of the determinations from the background checks.

[1] If the background checks result in a “favorable” determination, the State HRO will retain and maintain a copy of the verification memo.

[2] If the background checks result in an “unfavorable” determination, the Agency will terminate the employee or end the association with the volunteer and mentor, and provide a copy of the notification of termination to the SCANG Information Protection POC. The State HRO will retain and maintain a copy of the “unfavorable” verification memo.

(4) The SCANG Information Protection Section will maintain and retain the records of the Background Checks and determinations for the Program.

(5) The State HRO will maintain and retain a copy of results of the check of the US Department of Justice’s National Sex Offender Public Website and the Tier 1 Background Check verification memo.

(6) Criteria for Automatic Disqualification for all prospective/provisional employees, employees, volunteers and/or mentors of the STARBASE Program. The Agency will not hire any prospective, or retain any existing staff member, volunteer or mentor, regardless of circumstances, if their background check or subsequent information discloses that:

- The individual has been convicted in either a civilian or military court (to include any general, special, or summary court-martial conviction) or received non-judicial punishment pursuant to Article 15 of the UCMJ for:
 - A sexual offense
 - Any criminal offense involving a child victim
 - A drug offense for which the maximum authorized sentence includes confinement for one year or more
- The individual has been found negligent in a civil adjudication or administrative proceeding concerning the death or serious injury to a child or dependent person entrusted to the individual’s care.

(7) Criteria for Presumptive Disqualification for all prospective/provisional employees, employees, volunteers and/or mentors of the STARBASE Program. The following may be the basis for non-selection, withdrawal of a tentative offer of employment, probationary termination, termination, removal, or other appropriate action:

- Records indicating the individual met criteria for child abuse or neglect, or civil adjudication that the individual committed child abuse or neglect.
- Evidence of an act or acts by the individual that tend to indicate poor judgment, unreliability, or untrustworthiness in providing child care services.

- Evidence or documentation of the individual's past or present dependency on or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drugs without evidence of substantial rehabilitation.
- A conviction, in either a civilian or military court (including any general, special, or summary court-martial conviction), or received non-judicial punishment pursuant to Article 15 of the Uniform Code of Military Justice (UCMJ) for:
 - A crime of violence committed against an adult
 - Illegal or improper use, possession, or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drug
- A civil adjudication that terminated the individual's parental rights to his or her child, except in cases where the birth parent places his or her child up for adoption.

(8) Reverification

(a) All STARBASE Program employees, volunteers and/or mentors must undergo a full reverification every 5 years.

(b) The reverification will include a national criminal background check, a check of the national sex offender registries for all States, a check of the US Department of Justice's National Sex Offender Public Website, and Tier 1 Background Check to include a Child Care Special Agreement Check of the FBI fingerprint database.

[1] If the reverification results in a "favorable" determination, the State HRO will retain and maintain a copy of the verification memo.

[2] If the reverification results in an "unfavorable" determination, the Agency will terminate the employee or end the association with the volunteer and mentor, and provide a copy of the notification of termination to the SCANG Information Protection POC. The State HRO will retain and maintain a copy of the "unfavorable" verification memo.

(9) Self-Reporting

(a) Employees, volunteers and mentors of the STARBASE Program will immediately report the following information to the Program Manager:

- Any incident or conviction that may meet the criteria for Presumptive or Automatic Disqualification.
- Any incident or conviction that may invalidate the Employee's prior background check and make the Employee ineligible to work or have contact with children.
- Any conviction in either a civilian or military court, or received punishment pursuant to Article 15 of the Uniform Code of Military Justice (UCMJ) for any of the following reasons:
 - A sexual offense
 - Any criminal offense involving a child victim
 - A drug offense for which the maximum authorized sentence includes confinement for one year or more

- Any conviction, in either a civilian or military court, or non-judicial punishment pursuant to Article 15 of the UCMJ for:
 - A crime of violence committed against an adult
 - Illegal or improper use, possession, or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drug
- A civil adjudication that terminated the Employee's parental rights to their child, except in cases where, as a birth parent, the Employee placed their child up for adoption.
- Any incident or conviction that the Employee was found negligent in a civil adjudication or administrative proceeding concerning the death or serious injury to a child or dependent person entrusted to their care.
- Any incident or conviction that the Employee committed an act that meets the criteria for child abuse or neglect, or have been found in a civil adjudication to have committed child abuse or neglect.
- Any incident or conviction that the Employee committed acts that tend to indicate poor judgment, unreliability, or untrustworthiness in providing child care services.
- Any evidence or documentation of a past or present dependency on or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drugs without evidence of substantial rehabilitation.
- Changes in Personal Status to include any changes to the Employee's marital status, cohabitation status (doesn't include non-romantic roommates), and any name changes.
- Foreign travel to include all trips and vacations abroad (Even day trips to Mexico and Canada as well as any work trip that is not official government business. If deployed abroad, the Employee must report all personal travel to other countries during that time period).
- Foreign contact with any foreign national who could have personal information about the employee.
- Inadvertent or accidental loss/compromise of classified or other sensitive information.
- Financial problems to include filing for bankruptcy, garnishment of wages, having a lien placed on property for failing to pay a creditor, eviction from a residence for failure to pay rent, or inability to meet all financial commitments.
- Any arrest, regardless of whether or not charges were filed, or general involvement with the legal system (such as being sued, or the employee filing a claim against someone else).
- Psychological or substance abuse counseling. (Reportable mental health issues include legal findings of mental incompetence, court-ordered mental health care, in-patient mental health care, certain diagnoses which may impair judgment or reliability, and self-appraised mental health concerns that could impact judgment or reliability [Note - Seeking mental health treatment and counseling in and of itself is not a reason to revoke a clearance. Seeking care for personal wellness and recovery may contribute favorably to decisions about the employee's eligibility or continuous evaluation]).

(b) The Program Manager will immediately document the information, forward the information to the SCANG Information Protection POC, and notify the State Human Resources Officer.

(c) The State Adjudicator in the SCANG Information Protection Office will assess the information to determine if whether there is a “favorable” or “unfavorable” determination.

[1] If the information results in a “favorable” determination, the State HRO will retain and maintain a copy of the “favorable” verification memo.

[2] If the information results in an “unfavorable” determination, the Agency will terminate the employee or end the association with the volunteer and mentor, and provide a copy of the notification of termination to the SCANG Information Protection POC. The State HRO will retain and maintain a copy of the “unfavorable” verification memo.

(10) Subsequent Information

(a) If subsequent information surfaces within the period between reverifications which meets the criteria for Automatic Disqualification, the Agency will terminate the employee or end the association with the volunteer and mentor, and provide the information and a copy of the notification of termination to the SCANG Information Protection POC.

(b) If subsequent information surfaces within the period between reverifications which meets the Presumptive Disqualification or Self-Reporting criteria, the Program Manager will immediately document the information, forward the information to the SCANG Information Protection POC, and notify the State Human Resources Officer.

(c) The State Adjudicator in the SCANG Information Protection Office will assess the information to determine if whether there is a “favorable” or “unfavorable” determination.

[1] If the information results in a “favorable” determination, the State HRO will retain and maintain a copy of the “favorable” verification memo.

[2] If the information results in an “unfavorable” determination, the Agency will terminate the employee or end the association with the volunteer and mentor, and provide a copy of the notification of termination to the SCANG Information Protection POC. The State HRO will retain and maintain a copy of the “unfavorable” verification memo.