



Management Directive

Commonwealth of Pennsylvania

Governor's Office

Management Directive 515.15 Amended – Hiring-Related Verifications and Background Checks

Date: July 21, 2023

A handwritten signature in black ink, appearing to be "N. Weaver".

By Direction of: Neil R. Weaver, Secretary of Administration

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This directive establishes policy, responsibilities, and procedures for agencies to conduct hiring-related verifications and background checks. This revision includes updates to reflect organizational changes, as well as process and procedural changes.

1. PURPOSE.

To establish policy, responsibilities, and procedures for hiring-related verifications and background checks.

2. SCOPE.

This directive applies to all departments, boards, commissions, offices, and councils under the Governor's jurisdiction for human resources management (collectively "agencies").

3. OBJECTIVES.

- a. To ensure that agencies conduct all necessary hiring-related verifications and background checks, in accordance with applicable federal and state laws and regulations, as well as applicable Commonwealth policies.
- b. To promote a safe work environment by assisting agencies in making prudent employment decisions based upon comprehensive job-related information,

while also ensuring access to employment opportunities for Candidates with criminal convictions.

- c. To ensure a diverse and talented workforce by promoting the Commonwealth as an equal opportunity employer and assisting agencies in hiring qualified Candidates.

4. DEFINITIONS.

- a. **Candidate.** An applicant who meets the minimum qualifications and eligibility criteria for a position and receives consideration for employment by the hiring agency.
- b. **Consumer Reporting Agency.** A company that collects information from various sources and provides Consumer Reporting Information on individual consumers for a variety of uses in accordance with the federal *Fair Credit Reporting Act (FCRA)*, 15 U.S.C. §§ 1681–1681x.
- c. **Consumer Reporting Information.** Any written, oral, or other communication of any information by a Consumer Reporting Agency bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for employment purposes, including internal employment action. This information can include, but is not limited to, criminal history checks, credit checks, education verification, employment history verification, and use of social media.
- d. **E-Verify.** An internet-based system operated by U.S. Citizenship and Immigration Services (USCIS) with the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA), which compares information from an employee’s Form I-9, Employment Eligibility Verification, to data from DHS and SSA records to verify employment eligibility.
- e. **Final Candidate.** A Candidate who is still under consideration for hire following the interview process and receives a conditional offer of employment, which is contingent upon successful completion of all necessary verifications and background checks, in accordance with this policy.
- f. **Official Personnel Folder (OPF).** The hard copy or electronic (e-OPF) repository of employee information, which includes permanent employee information and temporary employee information that documents the employment work record.
- g. **Senior Level Positions.** Positions requiring special approval prior to appointment in accordance with *Management Directive 515.16 Amended, Appointment to Senior Level Positions*.

5. POLICY.

- a. **General.**

- (1) To promote a qualified workforce, as well as a safe and secure work environment, agencies must ensure that all necessary hiring-related

verifications and background checks are performed, as set forth in this directive.

- (2) Information received as part of hiring-related verifications and background checks must be maintained in accordance with Management Directive 505.18 Amended, Maintenance, Access, and Release of Employee Information. Hiring-related verification and background check information received on Candidates who are not selected for employment should be maintained for three (3) years and then purged.

b. Criminal History.

- (1) Consistent with Human Resources Policy HR-TM001, Fair-Chance Hiring, agencies may collect and review criminal history information during the application process if the position being filled has responsibilities that include the safeguarding or security of people or property, law enforcement, or contact with vulnerable populations; or, if a criminal conviction would make an applicant ineligible under law. For all other positions, criminal history information should only be collected and reviewed after a conditional offer of employment has been made to a Final Candidate by the agency as part of a criminal history record check.

- (2) Agencies must ensure that criminal history information disclosed by a Candidate or obtained through a criminal history record check is thoroughly reviewed to determine whether the criminal history includes criminal convictions that are related to the duties of the position for which a Candidate is being considered (job relatedness). If federal or state law precludes the hiring of individuals with certain criminal convictions, agencies shall continue to comply with the law.

Note: Although arrests may appear in a criminal history report, an arrest that did not result in conviction should not be considered a "criminal history record" for purposes of Commonwealth policy. Additionally, unless otherwise required by federal or state law or regulation, a conviction for a summary offense should not be considered a "criminal history record" for purposes of Commonwealth policy.

- (3) The review for job relatedness should include consideration of the following: the nature and severity of the criminal offense; the length of time that has passed since the occurrence of the offense and conviction, as well as the completion of any sentence (including payment of fines and costs as well as completion of parole/probation); and the relationship between the criminal offense and the job at issue, including an analysis of:

- (a) the nature of the job duties;
- (b) the essential functions of the job;
- (c) the circumstances under which the job is performed; and
- (d) the environment in which the job is performed.

- (4) If, after the review, the agency determines the Candidate's criminal record makes the Candidate unsuitable for the position, the Candidate must be informed of the determination and given an opportunity to respond to the concerns. Any response provided by the Candidate must be taken into consideration as to whether the response dispels the agency's concerns regarding the criminal record. If the Candidate does not respond to the agency, the agency should make its employment decision with the information at hand. The agency must notify the Candidate if the decision not to select the Candidate is based in whole or in part on the Candidate's criminal record.
- (5) If a Candidate with a criminal record or pending criminal charges is being considered for employment, approval from the Office of Administration (OA), Deputy Secretary for Human Resources and Management must be obtained prior to final selection unless an agency has been granted decentralized approval authority by OA.
- (6) On a recurring basis, OA will coordinate a criminal conviction and arrest crossmatch of all Commonwealth employees using criminal history information provided by the Pennsylvania State Police (PSP) and the Pennsylvania Justice Network (JNET). OA will provide the resulting data to agencies to review and take appropriate action in accordance with Commonwealth policy.

c. Consumer Reporting Information.

- (1) Agencies that review Consumer Reporting Information on Candidates for employment must ensure that these checks are necessary to determine a Candidate's qualifications for the position and that any employment decision based on information from a consumer report is job-related.
- (2) To ensure compliance with the *FCRA*, prior to making a final decision to not hire a Candidate, based in whole or in part on a consumer report, agencies must initiate the adverse action process with Justifacts, the third-party vendor contracted by OA to administer the Consumer Reporting Information process on behalf of agencies.

d. State Tax Compliance.

- (1) Prior to appointing a Final Candidate for initial employment or re-employment with the Commonwealth, agencies must verify that the Final Candidate is compliant with all state tax obligations, as confirmed by the Department of Revenue. While this is not a bar to employment or re-employment, the Department of Revenue has the authority to pursue wage garnishment for those individuals who do not take the steps to pay any outstanding tax liability.
- (2) On a recurring basis, OA and the Department of Revenue will coordinate a tax clearance crossmatch of all Commonwealth employees to ensure continued compliance with state tax obligations.

e. Verification of Employment Eligibility under IRCA.

- (1) The *Immigration Reform and Control Act of 1986 (IRCA)*, 8 U.S.C. §§ 1324a–1324b, makes it unlawful to hire, recruit, or refer for a fee unauthorized aliens. For the Commonwealth to meet *IRCA* requirements, appointing agencies must verify each employee's identity and authorization to work in the United States (U.S.) for salaried and wage, civil service and non-civil service positions, and for full or part-time employment.
- (2) The Commonwealth uses the online federal E-Verify system to verify employment eligibility for all new hires, rehires, and returns from furlough in agencies supported by the Human Resources Shared Services Office (HRSSO).

Note: The Commonwealth does not sponsor Candidates for H-1B visas, nor do Commonwealth positions qualify for participation in CPT, OPT, or STEM OPT programs for F-1 visa holders.

f. Employment and Education Verification.

- (1) Employment history verifications must include employers worked for, job titles held, and dates of employment to confirm that the Final Candidate possesses the experience necessary to meet the minimum qualifications for the position to which the Final Candidate applied.
- (2) Education verifications must confirm that the Final Candidate has achieved the educational requirements necessary to meet the minimum qualifications for the position to which the Final Candidate applied.

g. Additional Checks and Clearances.

- (1) Depending on the position, additional checks and clearances may be required, such as a suitability check for accessing federal tax information pursuant to *Section 226 of The Administrative Code of 1929, 71 P.S. § 85*, or a clearance under the *Child Protective Services Law, 23 Pa.C.S. §§ 6344, 6344.3(f)*.
- (2) When considering a Final Candidate who is a current or former Commonwealth employee, HR staff supporting the agency must review the Final Candidate's OPF.

Note: The OPF of a former Commonwealth employee may contain a settlement agreement, wherein the former Commonwealth employee agreed not to seek or accept future employment with the Commonwealth. In such situations, HR staff supporting the agency should take appropriate action, including, but not limited to, seeking a list removal from the Office of Administration (OA) if the position is a civil service position.

6. RESPONSIBILITIES.

a. Agency Hiring Managers shall:

- (1)** Ensure that necessary procedures and safeguards are implemented in accordance with this directive.
- (2)** If they have been granted such authority by OA, review and approve or deny requests to appoint Candidates with criminal records in accordance with an OA-approved decentralized approval plan.

b. Human Resources (HR) Staff Supporting the Agency shall:

- (1)** Ensure that Candidate screening, interview, selection and hiring-related verifications and background checks are completed in accordance with applicable federal and state laws and regulations, as well as applicable Commonwealth policies.
- (2)** Ensure that all information collected during the hiring-related verification and background process is secured, maintained, and purged in accordance with all applicable federal and state laws and regulations, as well as all Commonwealth policies.
- (3)** Implement necessary special requirements or conditions of employment above and beyond those stipulated on an enterprise basis by the Executive Board, where appropriate, and ensure that hiring-related verification and background check processes are in place to ensure compliance with such requirements or conditions.
- (4)** Ensure that Form I-9 is completed timely and maintained for all employees, as required.

c. OA, Deputy Secretary for Human Resources and Management shall:

- (1)** Review and approve or deny requests to appoint Candidates with criminal records for agencies where decentralized approval has not been granted.
- (2)** Notify agencies of employee criminal history data and arrests.

d. OA, Secretary of Administration shall review and approve or deny agency decentralized approval plans to appoint Candidates with criminal records.

e. OA, Integrated Enterprise Systems (IES) shall securely transmit employee data to the Department of Revenue and PSP, Records and Identification Division to support employment-related verification and background check processes.

f. Department of Revenue shall:

- (1)** Provide an intranet site for State Tax Compliance checks.
- (2)** Notify employees who are found to be out of compliance during the recurring tax clearance crossmatch.

- g. PSP, Records and Identification Division**, shall provide criminal history data to OA as requested for purposes of employment-related background checks.
- h. HRSSO** shall:
 - (1)** Transmit Form I-9 information to E-Verify.
 - (2)** Monitor the timely completion of I-9 Forms and notify HR staff supporting the agency when non-compliance issues are identified.
 - (3)** Notify HR staff supporting the agency when a tentative non-confirmation of eligibility to work in the U.S. is received to resolve the issue.
 - (4)** Audit results for compliance with E-Verify procedures.
- i. Office of Inspector General (OIG)** shall conduct comprehensive background checks on Final Candidates for the following Senior Level Positions:
 - (1)** All professional positions within an agency executive office, including agency heads, deputy secretaries, and executive and special assistants.
 - (2)** All Governor's Office staff (including Office of General Counsel).
 - (3)** Agency Policy Press and Legislative Director positions.
 - (4)** Other positions upon request.

7. PROCEDURES.

- a.** When assessing potential Candidates for a vacancy, HR staff supporting the agency must evaluate work experience, education, and training in accordance with standard hiring procedures to remove non-qualified applicants from consideration. In cases where a position necessitates special requirements, such as professional licenses or certifications, or where state or federal law, or Commonwealth policy, prohibits the appointment of individuals with specific criminal backgrounds, HR staff supporting the agency may screen for these special requirements or criminal history prior to the interview and selection process.
- b.** Unless an exception is granted by OA, upon the extension of a conditional offer of employment to a Final Candidate, the following shall occur:
 - (1)** HR staff supporting the agency must verify the Final Candidate's employment experience and education to confirm that the Final Candidate meets the minimum qualifications for the position.

Note: Hiring managers are encouraged to obtain from the Final Candidate at least one professional reference, who can attest to the Final Candidate's work experience. Preferably, the professional reference should be from the Final Candidate's most recent employer. Members of the Final Candidate's family cannot be used as professional references. During the phone call with the professional reference, the

hiring manager may ask questions concerning the Final Candidate's attendance or work performance.

- (2)** If required for the position, HR staff supporting the agency must verify the Final Candidate's professional license, title, or certification. The verification must be completed using a primary source for verification of credentials, such as the licensing entity, and must include a review of any discipline referenced by the source.
- (3)** HR staff supporting the agency must complete a criminal history record check for the Final Candidate.
 - (a)** At a minimum, the criminal history record check must consist of a PSP Pennsylvania Access to Criminal History (PATCH) check for purposes of identifying criminal convictions and pending criminal charges in Pennsylvania. However, additional criminal history record checks may be required depending on the specific position.
 - (b)** Unless otherwise required by federal or state law or regulation, agencies may not consider convictions for summary offenses, minor traffic violations, offenses adjudicated in juvenile court or under a youth offender law, and convictions which have been annulled, expunged, pardoned, or otherwise erased from the official record (such as through successful completion of an Accelerated Rehabilitative Disposition or other diversionary program) as part of the hiring decision.
 - (c)** If the agency becomes aware of pending criminal charges or criminal convictions, the Final Candidate should be asked to provide an explanation and be given an opportunity to provide evaluative information on these charges/convictions. If the Final Candidate challenges the accuracy of the criminal information, the agency should try to determine the validity of the information at the source.
 - (d)** HR staff supporting the agency must confirm whether the Final Candidate served and completed all conditions of an imposed sentence, including but not limited to the payment of fines/costs/fees and completion of probation or parole. If the Final Candidate is currently on probation or parole, the probation or parole officer must be contacted.
 - (e)** If the decision not to hire a Final Candidate is based in whole or in part on criminal history record information, the agency must provide written notification to the Final Candidate in accordance with the *Criminal History Record Information Act, 18 Pa.C.S. § 9125(c)*.
 - (f)** If a Final Candidate with a criminal record or pending criminal charges is being considered for employment, HR staff supporting

the agency must submit for approval to appoint via an OA-approved agency process or from the OA, Deputy Secretary for Human Resources and Management via the electronic OA Approval to Appoint intranet application.

- (g)** The same procedure for criminal history record checks applies to those circumstances where an agency collects and reviews criminal history information during the application process pursuant to Section 5.b.(1) of this directive.
- (4)** HR staff supporting the agency must verify that the Final Candidate is compliant with all state tax obligations, utilizing the intranet site provided by the Department of Revenue.
- (5)** When considering a Final Candidate who is a current or former Commonwealth employee, HR staff supporting the agency must review the Final Candidate's OPF.

 - (a)** Access to electronic OPF (e-OPF) documents, SAP HR and Payroll module master data, or legacy employment history information from the Integrated Personnel Payroll System (IPPS) can be requested by contacting the HRSSO. For current employees, approval must be obtained from the HR staff supporting the Final Candidate's current agency prior to requesting e-OPF access from the HRSC.
 - (b)** Regarding former employees, hard copy OPF documents that were archived prior to e-OPF implementation may be requested from the State Records Center.
- (6)** When warranted by the duties of the position, HR staff supporting the agency should review a Final Candidate's Consumer Reporting Information in accordance with Section 5.c. of this directive.

 - (a)** Consumer Reporting Information is to be held in strict confidence and maintained in a manner that is secure against unauthorized third-party access, in accordance with *Management Directive 505.18 Amended, Maintenance, Access, and Release of Employee Information*.
 - (b)** Prior to taking an adverse action against a Final Candidate based, in whole or in part, on information contained in a consumer report, the agency must initiate the adverse action process with Justifacts. During the adverse action process, Justifacts will provide to the Final Candidate a copy of the consumer report, as well as a Pre-Adverse Action Notice letter and a written description of the Final Candidate's rights in accordance with *FCRA*.
 - (c)** Following the completion of procedure in *Section 7.b.(6)(b)*, if the agency still intends to take an adverse action, the agency will

instruct Justifact, via the adverse action process, to provide the Final Candidate an adverse action notice, in accordance with FCRA.

- (7) HR staff supporting the agency must complete any additional checks and clearances required due to the duties of the position, including, but not limited to, a suitability check for accessing federal tax information pursuant to *Section 226 of The Administrative Code of 1929, 71 P.S. § 85*, or a clearance under the *Child Protective Services Law, 23 Pa.C.S. §§ 6344, 6344.3(f)*.
- (a) In addition to the hiring-related verifications and background checks set forth in Section 7.b. of this directive, when considering a Final Candidate for a bureau director position or an equivalent or higher position, HR staff supporting the agency must check both the [PSP Megan's Law website](#) and the [U.S. Department of Justice National Sex Offender Public Website](#). In cases where a Final Candidate has resided out of state, additional sources may be used (e.g., court records). Agencies may also use additional resources, such as the Federal PACER service or Consumer Reporting Agency products such as LexisNexis to gather additional job-related information.
- (b) If concerns remain about a Final Candidate for a civil service position following the completion of the hiring-related verifications and background checks, the agency should submit to OA a list removal request, in accordance with the *Civil Service Reform Act* and corresponding regulations. Examples of concerns that may warrant a list removal request include, but are not limited to: the Final Candidate's Required educational background, work experience, or professional license cannot be verified; the nature and severity of a criminal conviction and underlying offense is such that it would make the Final Candidate unsuitable for employment in this job; the Final Candidate is currently suspended from Commonwealth employment pursuant to *Executive Order 1980-18, Code of Conduct*; or the Final Candidate was previously terminated from a Commonwealth position for cause directly related to the job.
- (c) If concerns remain about a Final Candidate for a non-civil service position following the completion of the hiring-related verifications and background checks, the agency should contact OA, Bureau of Talent Acquisition for further direction or additional Candidates.
- c. Upon successful completion of the hiring-related verifications and background checks, but **prior** to extending the Final Candidate a formal offer of employment, HR staff supporting the agency must:

- (1) Obtain senior level approval in accordance with *Management Directive 515.16 Amended, Appointment to Senior Level Positions*, if filling a Senior Level Position.
 - (2) Confirm that complement authorization has been granted, in accordance with *Management Directive 505.2 Amended, Salaried Complement Management and Control*, and *Management Directive 505.20 Amended, Wage Complement Management and Control*.
 - (3) Confirm that all collective bargaining, civil service, or equal opportunity requirements have been met, and that the final selection is in accordance with all applicable federal and state laws and regulations, as well as all Commonwealth policies.
 - (4) After receiving all necessary approvals and confirming all requirements have been met, the agency may extend the Final Candidate a formal offer of employment.
- d. After a Final Candidate is appointed, any suspicion or belief that false, material information was submitted on, or in connection with, an application for employment should be investigated by the agency. Once the investigation is completed, the agency should take appropriate action, which may include disciplinary action up to and including termination, as well as referral to appropriate authorities for purposes of criminal prosecution. If an agency finds evidence that an individual falsified an official OA document, including, but not limited to, a civil service job application, the agency should notify OA immediately.
- e. Once a Final Candidate is appointed, the agency must verify the employee's eligibility to work in the U.S.
- (1) All new hires, rehires, and returnees from furlough must complete Section 1 of [Form I-9, Employment Eligibility Verification](#) (Form I-9) no later than the first day of employment.
Note: The Form I-9 process cannot start, nor can agencies ask to see employment authorization documents, until after the Final Candidate has been offered the job and has accepted the job offer.
 - (2) Agencies must fully complete Section 2 of Form I-9 within three business days from the employee's first day of work for pay. For example, if the employee's first day of work is on Monday, Section 2 must be completed by the Thursday of that week. The HRSSO will contact HR staff supporting the agency if Section 2 of Form I-9 is not completed within three business days.
 - (3) Employees must present the agency with documentation establishing their identity and eligibility to work in the U.S. in accordance with the acceptable document list on Form I-9.

- (4) Agencies must physically examine the documentation presented by the employee and log required information, including document identification numbers and issuing authority (such as county, state, or federal department) in the appropriate spaces on Section 2 of Form I-9.
- (a) If, at any point, an employee is unable to present a required document (or documents), the employee can present an acceptable receipt in lieu of a document from the List of Acceptable Documents. The types of acceptable receipts are described on the instructions for Section 2 of Form I-9. Other receipts, including receipts showing that a person has applied for an initial grant of employment authorization or for renewal of employment authorization, are not acceptable. Generally, the receipts described on the instructions for Section 2 of Form I-9 are valid for 90 days from the date of hire, and an employee must present the replacement document for which the receipt was given within that period.
- (b) Agencies may not refuse to accept a document or acceptable receipt because a document has a future expiration date.
- (c) Employees who are unable to meet acceptable documentation requirements must be separated from employment.
- (5) Once Form I-9 is completed by the agency, the agency will forward the form to the HRSSO, and the HRSSO will transmit the information to the federal Department of Homeland Security through E-Verify to verify whether the employee is eligible for employment. For those situations where employment is not authorized, the HRSSO will initiate the tentative non-confirmation process and will work directly with the HR staff supporting the agency to resolve the situation.
- (6) Documents which contain expiration dates for aliens lawfully admitted and authorized by U.S. Citizenship and Immigration Services (USCIS) to work in the U.S. must be re-verified prior to expiration. Re-verification only applies if one or more List A or List C documents presented in Section 2 of Form I-9 expire. For re-verification, an employee must present unexpired documents from either List A or List C showing he or she is still authorized to work.
- (a) Documents provided by U.S. citizens, noncitizen nationals, or permanent residents who presented a Permanent Residence Card (Form I-551) should not be re-verified.
- (b) List B documents should not be re-verified.
- Note:** The HRSSO will monitor the expiration dates of documents that need to be re-verified and will contact the HR staff supporting the appointing authority to initiate the re-verification process

- (7) An agency is not required to re-verify an employee's employment eligibility if the employee is continuing employment. Continuing employment includes, but is not limited to, situations where:
- (a) The employee takes paid or unpaid leave approved by the agency.
 - (b) The employee is promoted, demoted, or receives a pay raise.
 - (c) The employee is on strike or otherwise off the job in a labor dispute.
 - (d) The employee is reinstated by a court, arbitrator, or other administrative body.
 - (e) The employee transfers internally or between agencies. The losing agency shall transfer the employee's Form I-9 to the gaining agency via the OPF.
 - (f) The employee continues employment with a successor agency, provided that the successor agency obtains and maintains Form I-9.
- (8) Agencies must retain an employee's completed Form I-9 for as long as the employee works for the Commonwealth. Once employment is terminated, Form I-9 must be retained in the employee's OPF by agencies, consistent with *Management Directive 505.18 Amended, Maintenance, Access, and Release of Employee Information*, for three (3) years after the date of hire or one (1) year after the date the individual's employment is terminated, whichever is later.
- (9) Individuals transferring from agencies, commissions, and legislative or judicial entities not under the Governor's jurisdiction must complete Section 1, and the appointing agencies must complete Section 2 of Form I-9, ONLY if there is not a completed form in the OPF. Once completed, the form must be retained in the OPF.
- (10) Form I-9 must be completed for Board members who receive statutory salary or payment on a per diem basis. Form I-9 is not required for Board members who receive reimbursement for expenses only (e.g., travel and subsistence).
- (11) Form I-9 must be completed for all persons hired on or after November 6, 1986, and who continue to be employed. If there is no Form I-9 in the OPF for an employee hired on or after November 6, 1986, a form must be completed and placed in the OPF.

This directive replaces, in its entirety, *Management Directive 515.15 Amended*, dated March 6, 2019.