

ABRAHAM BALDWIN AGRICULTURAL COLLEGE

Effective
Date _____

Revised
Date _____

BACKGROUND INVESTIGATION POLICY & PROCEDURE

Background Investigation Policy:

It shall be a condition of employment with Abraham Baldwin Agricultural College (ABAC) to submit to a background investigation. Offers of employment shall be conditional pending the result of the background investigation, which shall include, at a minimum, the following:

- A state and federal criminal history check covering a minimum of seven (7) years;
- A nationwide sex offender search;
- A social security number check; and
- For all professional, faculty and academic positions, an academic credentials check.

Offers of employment for sensitive positions may be conditional pending the result of a state and federal criminal history check covering more than the minimum of seven (7) years. Sensitive Positions are those that involve interaction with children, after-hours access to facilities, access to financial resources, or that have been otherwise identified by the hiring official to require a more extensive background investigation.

Abraham Baldwin Agricultural College may also elect to perform, at any time, reference checks and/or background investigations on part-time employees, student workers, temporary employees and volunteers.

BACKGROUND INVESTIGATION PROCEDURE

Definitions:

Background Investigation – An investigation comprised of a criminal background check (including social security number check and, for positions with access to or responsibility for money, a credit check) confirmation of credentials and confirmation of employment history.

Background Review Committee (BRC) –Should the background investigation report show findings or upon the conviction of a crime while employed, an administrative committee will be established to determine candidate's eligibility and suitability for employment or continued employment. The committee will have a minimum of three members and not more than five members and include at least the Director of Human Resources, the Chief of Public Safety, and the Vice President with administrative responsibility in the area of the pending hire.

Consent Form – A form authorizing the institution to conduct a criminal background check. All employment finalists and promotion candidates at the institution are required to sign a Consent Form to be considered for employment with the college.

Hiring Department – The department hiring a new employee (whether internally or externally) or promoting an existing employee.

Human Resources – The College's employment office that handles all new hires.

Determining Employment Eligibility for Applicants with Criminal History

Only criminal convictions may be considered when determining a candidate's eligibility for a specific position or employment as a whole. Detention and/or arrest without conviction do not constitute valid grounds for adverse employment decisions and do not play a part in the decision-making process. However, if an individual has a criminal case pending, his or her suitability for continued employment will be reviewed upon disposition of the case.

1. Felony convictions and convictions involving crimes of moral turpitude automatically disqualify an individual for employment with the College.
2. Failing to disclose a criminal conviction history where required in employment application materials will disqualify a candidate for employment with the College.

3. When determining whether a candidate with disclosed criminal convictions is eligible for employment or promotion, the Background Review Committee will consider the specific responsibilities of the position for which the candidate is being considered, the nature, number and gravity of crimes for which the candidate was convicted and the amount of time that has passed since the conviction. A determination of ineligibility for a specific position as the result of a misdemeanor criminal background does not necessarily mean that an individual is ineligible for all employment with the institution and each such determination will be made on a case by case basis.

Process for Conducting Background Investigation

Notice should be included in all job postings that finalists will be required to submit to a background investigation. The institution shall set guidelines for assigning the cost of performing a background investigation.

The Hiring Department is responsible for confirming the employment history and credentials of an applicant and Human Resources office initiates the Background Investigation before an offer of employment is extended. This process occurs during the interview schedule of each candidate. With respect to the promotion of existing employees, the College shall implement a procedure for obtaining the Consent Form from the employee prior to initiating the Background Investigation.

The Hiring Department chooses a finalist and contacts Human Resources to initiate the extended background investigation. A conditional offer of employment/promotion may be made at this time. **Important: All offers of employment must be made in writing and must include the following statement:**

“This offer of employment is contingent upon completion of a background investigation, including a criminal background check, demonstrating your eligibility for employment with Abraham Baldwin Agricultural College, as determined by ABAC in its sole discretion, confirmation of the credentials and employment history reflected in your application materials, and, if applicable, a satisfactory credit check.”

If the candidate is not hired for the involved position (e.g. felony conviction precludes hiring, other convictions render applicant ineligible for the specific position, candidate does not accept the job offer, etc.) the Hiring Department may select another candidate for the position. The Hiring Department and Human Resources will again follow the procedures outlined above to initiate the background check for the selected candidate.

How Criminal Background Check Information is Processed:

Background Investigation reports are submitted directly to the Human Resources office by the entity performing the investigation. In the event the background investigation report returns findings, the BRC will be convened to determine the eligibility of the selected candidate for employment with the institution. The Human Resources office should notify the Hiring Department of this determination. The following are the possible results and procedures following the background investigation:

1. ***The Background Investigation report shows no convictions:*** the selected candidate is eligible for employment. Department is notified of results via email.
2. ***The Background Investigation report shows one or more felony convictions or conviction of one or more crimes of moral turpitude:*** the selected candidate is ineligible for employment with the College.
 - a) Prior to making this final determination, the Human Resources office must give a pre-adverse action disclosure to the candidate. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute information in the report. A copy of the "Summary of Your Rights Under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.
 - b) The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors and have this explanation considered prior to finalization of the hiring decision. The submission must be accompanied by a certified copy of conviction.

- c) If the candidate successfully shows that s/he has no felony convictions or convictions of crimes of moral turpitude, the candidate shall be eligible for employment. The Human Resources office will notify the Hiring Department of this determination.
- d) If the candidate is unsuccessful in showing no felony convictions or convictions of crimes of moral turpitude, the candidate is ineligible for employment. An adverse action notice must then be sent to the candidate. This notice must include:
 - i. the name, address and telephone number of the company that supplied the Background Investigation report;
 - ii. a statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
 - iii. a notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request.

3. ***The Background Investigation report shows one or more misdemeanor convictions:***

- a. The misdemeanor convictions were all disclosed by the selected candidate in the application materials. The BRC will determine whether the candidate is eligible for the involved position based on the job description and the nature of the crimes for which the candidate was convicted.
 - i. if the BRC determines the candidate is eligible, the Human Resources office will so notify the Hiring Department.
 - ii. if the BRC determines the candidate is not eligible, prior to making this final determination, the Human Resources office must give a pre-adverse action disclosure to the candidate.
 - 1. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute the information in the report. A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.
 - 2. The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to the finalization of the hiring decision.
 - 3. If the candidate successfully shows that s/he does not have the misdemeanor convictions that led the BRC to determine that the candidate was ineligible for employment, the candidate shall be eligible for employment. The Human Resources office will notify the Hiring Department of this determination.
 - 4. If the candidate is unsuccessful in showing that s/he does not have the misdemeanor convictions that led the BRC to determine that the candidate was ineligible for employment, the candidate is ineligible for employment. An adverse action notice must then be sent to the candidate. This notice must include:
 - a. the name, address and telephone number of the company that supplied the Background Investigation report;
 - b. a statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
 - c. a notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request.
- b. The misdemeanor convictions were not disclosed by the selected candidate in the application materials. The Human Resources Office will notify the candidate in writing that the Background Investigation revealed misdemeanor convictions not disclosed in his/her application materials and that s/he will be removed from consideration for the involved position due to misrepresentation and falsifying application materials unless s/he contacts the Human Resources office and corrects any inaccuracies contained in the report within a minimum of three (3) days. This notification will be accompanied by a pre-adverse action disclosure.
 - i. This pre-adverse action disclosure must include a copy of the candidate's Background Investigation report, together with the name, address and telephone number of the company that conducted the Background Investigation, and information on how to dispute the information in the

report. A copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” must also be provided to the candidate. This summary will be typically provided by the company performing the Background Investigation.

- ii. The candidate must be given an opportunity (a minimum of three days) to provide an explanation in writing of the circumstances surrounding the results of the Background Investigation, including any mitigating factors, and have this explanation considered prior to the finalization of the hiring decision.
- iii. If the candidate successfully shows that s/he has no misdemeanor conviction, the candidate shall be eligible for employment. The Human Resources office will notify the Hiring Department of this determination.
- iv. If the candidate is unsuccessful in showing that s/he does not have the misdemeanor convictions that let the BRC to determine that the candidate was ineligible for employment, the candidate is ineligible for employment. An adverse action notice must then be sent to the candidate. This notice must include:
 1. the name, address and telephone number of the company that supplied the Background Investigation report;
 2. a statement that the company that supplied the Background Investigation report did not make the decision to take the adverse action and cannot give specific reasons for it; and
 3. a notice of the individual's right to dispute the accuracy and completeness of any information the company furnished in the Background Investigation report and the right of the individual to obtain an additional free report from the company upon request.

Maintenance of Background Investigation Reports

Background Investigation reports should be delivered directly to the Human Resources office by the entity performing the investigation. The report will remain with the Human Resources office until the determination on employment eligibility has been made. Human Resources shall place a certification in the employee's personnel file stating the date the report was obtained, the name of the person(s) or the names of the BRC members reviewing the report and a statement that the report showed that the employee was or was not eligible for employment with the institution. The report shall then be stored segregated from the employee's personnel file. The report itself is not provided to nor maintained by the Hiring Department.

Consent forms for Background Investigations shall be placed in the personnel file of the employee and maintained in accordance with USG Record Retention Guidelines.

For all non-successful applicants and current employees, consent forms for Background Investigations, a copy of the pre-adverse action disclosure, a copy of the adverse action notice, the statement of the person(s) or committee reviewing the Background Investigation report to determine if the subject of the report was or was not eligible for employment and the Background Investigation report must be retained in accordance with USG Record Retention Guidelines.

A copy of his or her report shall be given to each applicant.

A Background Check affidavit (see attached) shall be prepared on all checks performed, signed by the proper authorities, and placed in a file for record keeping purposes, separate from the personnel files.

Additional procedures in the maintenance and retention of the Background Investigation report and supporting documents, required by law or by practice, may be initiated as long as they do not interfere with USG Record Retention Guidelines.

Moral Turpitude

Courts in Georgia have found that moral turpitude “includes everything contrary to justice, honesty, modesty or good morals.” In determining whether a crime is one that involves moral turpitude, the courts have applied the following test: does the crime, disregarding its punishment, meet the test as being contrary to justice, honesty, modesty, good morals or man's duty to man?

The following are some crimes involving moral turpitude:

- Fraud or false pretenses in obtaining something of value
- Larceny or a misdemeanor theft by taking
- Larceny after trust

- Murder
- Soliciting for prostitutes
- Voluntary manslaughter
- Sale of narcotics or other illegal drugs
- Pattern of failure to file federal tax returns in years in which taxes are due
- Criminal issuance of a bad check
- Making a false report of a crime

The following have been held to be not crimes involving moral turpitude:

- Public drunkenness
- Driving under the influence
- Carrying a concealed weapon
- Unlawful sale of liquor
- Fighting
- Simple Battery
- Simple Assault
- Misdemeanor criminal trespass
- Child abandonment
- Misdemeanor offense of escape
- Misdemeanor offense of obstructing a law enforcement officer
- Possession of less than one ounce of marijuana

Arrests and Convictions

Any current employee who is charged with a crime (other than a minor traffic offense) shall report being charged with such crime to the Human Resources office and employee's supervisor within 72 hours of the employee becoming aware of such charge. Failure to report being charged with such a crime may result in appropriate disciplinary action, including termination of employment. The Human Resources office shall review the nature of the crime and make a determination on what, if any, action should be taken regarding the employee's employment status until resolution on the charge.

Any current employee who is convicted of a crime (other than a minor traffic offense) shall report such conviction to the Human Resources office and the employee's supervisor within 24 hours of the conviction. Failure to report such conviction may result in appropriate disciplinary action, including termination of employment. The BRC shall review the nature of the crime and make a determination on what, if any, action should be taken regarding the employee's employment status. The BRC shall review the crime utilizing the same standards as it applies in reviewing crimes committed by a candidate for employment but may consider other factors, including the length of employment of the employee and performance reviews.