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| OREGON MILITARY DEPARTMENT | NUMBER: AGP-99.300.07 |
| ADJUTANT GENERAL PERSONNEL | EFFECTIVE DATE: August 24, 2023 |
| SUBJECT: Criminal History Background Checks for Federal Security Clearances | |

APPLICABILITY: This policy applies to all Oregon Military Department employees and temporary individuals as defined in OAR 407-007-0010 (19) and OAR 407-007-0410 (5).

AUTHORITY/REFERENCE: Guidelines for conducting background checks on subject individuals pursuant to OARs 407-007-0000 through 407-007-0100 and OARs 407-007-0400 through 407-007-0460. The reporting of any criminal activity by subject individuals pursuant to OAR 407-007-0010(4). Federal guidelines issued by the Department of Defense Directives (DoDDs) 5124.02 and Department of Defense Instruction (DoDI) 1000.25.

PURPOSE: To provide clarification regarding criminal background checks to obtain federal security clearances for state employees. Individuals not complying with this policy may be removed from their position with the agency.

BACKGROUND: The Oregon Military Department (OMD) values the employees who provide support to the Oregon National Guard. OMD is committed to providing screening of current employees, volunteers, contractors, and applicants to determine if they have a history of criminal behavior such that they should not be able to obtain a Federal Common Access Card (CAC) to allow them to work, volunteer, be employed, or otherwise perform in positions covered by these rules.

DISCUSSION:

- a. Whenever an employee fails to immediately report a matter which may affect their security clearance or job requirement of a clear criminal background history, the employee may be subject to disciplinary action up to and including dismissal.
- b. A regular status employee who falls subject to unfavorable investigative findings shall be afforded due process prior to any disciplinary action being taken.
- c. If an employee reports something that could affect another employee's security status, they must submit the information in writing to the AGP State HR Director. The information source must be reliable. There must be reasonable belief the incident occurred, and the information must be based on fact, not suspicion.
- d. Supervisors may contact AGP's State HR Director to ensure the proper application is completed, and for policy clarification.

DEFINITIONS:

Classified Information Nondisclosure Agreement (SF312): An agreement between the United States Government and an employee who possesses a secret clearance or higher, that affirms the employee will never disclose classified information to an unauthorized person.

Condition of Employment: A job-related requirement that must be met and maintained to be employed by the OMD.

Electronic Questionnaires for Investigations Processing (EQIP): An electronic software form that facilitates the employee's completion of the necessary forms to obtain a security clearance.

Law Enforcement Data System (LEDS) Check: Criminal background check of Oregon State counties' and cities' criminal records.

National Agency Check Inquiries (NACI): A criminal background check using fingerprint cards to obtain national criminal history.

Restricted Area: Any property or building owned, operated, or leased by the Oregon National Guard (ORNG) including federal Army or Air Guard installations where classified information, equipment, materials, or munitions are stored.

Secret Security Clearance: An official authorization by the federal government to access work areas where classified information, equipment, materials, or munitions is used, maintained, or protected.

Top Secret Security Clearance: An official authorization by the federal government to access top secret information after a special background investigation is conducted.

GUIDANCE:

- a. It is the policy of the Oregon Military Department (OMD) to process a pre-employment criminal background check as a condition of employment prior to the employee's start date.
- b. Employees who access federal government networked computers or have access to sensitive information, for example, social security numbers, handle cash, credit cards, checks, or work in a restricted area (unescorted), shall be subject to, at a minimum, a National Agency Check Inquiries.
- c. Employees required by a Master Cooperative Agreement, or who have access to classified information, materials, equipment, or munitions shall possess, at a minimum, a secret security clearance.
- d. Employees who are General Officers, such as The Adjutant General and others as designated, shall be required to have a top-secret security clearance.

- e. Prior to filling a position, supervisors will evaluate the nature of the work performed and shall determine the appropriate security clearance designation in accordance with federal governmental regulations and provisions of this policy.
- f. When a security clearance is established as a condition of employment, job offers shall be contingent upon the applicant's ability to obtain and maintain the appropriate security clearance.
- g. Employees shall apply for a security clearance by submitting the appropriate forms to their supervisor who processes the information in accordance with the proper security authority within 30 days from date of hire, or at time of renewal.
- h. Until such time an employee's security clearance investigation is concluded, supervisors may grant permission for an employee to obtain an interim security clearance in accordance with federal governmental regulations.
- i. Whenever unfavorable information is received as part of the security clearance investigation, the employee shall be contacted and given an opportunity to refute or provide additional information prior to any adverse action being taken.
- j. A trial service employee, who falls subject to an unfavorable investigative finding and is not granted the appropriate security clearance, may be removed from trial service when consultation with the employee fails to resolve disqualifying information.
- k. A regular status employee who may fall subject to a denial or revocation of their security clearance shall be consulted with the appropriate authority and, if unresolved, given due process prior to dismissal from state service.
- l. Employees violating the Classified Information Nondisclosure Agreement (SF312) may be considered a risk to the agency and may be considered for removal of their position and given due process when consultation with the employee fails to resolve disqualifying events.
- m. Supervisors shall maintain the highest degree of confidentiality as it relates to investigative findings; sharing such information with only those individuals who have a need to know.

RESPONSIBILITIES:

- a. The Adjutant General Personnel Director (aka. State HR Director): Manages the implementation of this policy and provisions for compliance.
- b. Managers and Supervisors: Agency managers/supervisors will work in coordination with the federal security staff to ensure proper security procedures are followed at the local level.

Reports incidents of arrests, conviction, or other unfavorable information received that may affect an employee's security clearance must be reported immediately to the State HR Director.

Identifies the appropriate security clearance level for each position under their supervision in accordance with federal governmental regulations, provisions of this policy, and ensures the proper security clearance requirement is stated in the position description.

Validates with the Agency Recruiter that the appropriate security clearance requirement has been established as a condition of employment in the position description (PD) when filling vacancies.

Submits the Criminal History Release and Disclosure Forms on behalf of the applicant to the Agency LEADS Representative for processing and ensures positive results have been received before continuing with the final job offer.

Following the local procedures by ensuring that an employee has submitted the appropriate federal security clearance paperwork to the respective security authority for processing within 30 days from date of hire or as scheduled for renewal purposes.

Acquires employees' acknowledgement of their condition of employment to obtain and maintain the designated security clearance by having the employee sign their position description at time of hire.

Advises the Agency's State HR Director whenever information pertaining to an arrest, conviction, or other unfavorable information is received that may affect an employee's ability to obtain or maintain a security clearance.

Notifies local security official in writing, that an employee with a Secret or Top-Secret clearance traveling outside the United States has completed the required outside contiguous United States (OCONUS) Brief.

- c. Employee: If a condition of employment requires a federal security clearance, completes the necessary forms and fingerprint cards to present to supervisor for submission to the local security personnel for processing within 30 days of hire.

Current employees and volunteers and those employees with Federal Security Clearances, must report, within three (3) business days, any citation, arrest or conviction to their immediate supervisor or the Agency State HR Director and a background check will be performed to include criminal and driving history.

Employees who travel outside the United States are requested to review the outside contiguous United States (OCONUS) briefing. This briefing provides information about personal security that could be useful to employees and their families. This briefing is mandatory for employees that hold a SECRET or TOP SECRET security clearance.

TRAINING AND EDUCATION:

- a. Department of Defense Common Access Card Guidelines and additional information:
<https://www.cac.mil/Policies/>
- b. Air Force CONUS to Non-Foreign OCONUS Civilian PCS Briefing:
<https://www.afciviliancareers.com/pdf/CONUS%20to%20NON-FOREIGN%20OCONUS.pdf>
- c. Army Fort Leavenworth LEVY (PCS) Briefing for OCONUS Assignments:
https://home.army.mil/leavenworth/application/files/6116/7303/4169/AG-HRS-CONUS-LEVY_6_JAN_2023.pdf

INQUIRIES / QUESTIONS: Questions pertaining to this guidance may be directed to AGP at (503) 509-2152 or OMD_AGP@omd.oregon.gov.



Tracy Garcia
HR Director
Adjutant General State Personnel