



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Community Services Group

J.2.

7/20/2021

Subject:

Staff Direction: Background Investigation Screenings for Parks and Recreation Department Recreation Partners, Recreation Instructors and Volunteers

Fiscal Impact:

Approximately \$70,000 annually

Dept/Office:

Parks and Recreation

Requested Action:

It is requested that the Board of County Commissioners provide direction to staff regarding Background Investigation Screenings for Parks and Recreation Department Recreation Partners, Recreation Instructors and Volunteers

Summary Explanation and Background:

Background Screening Criteria

The Parks and Recreation Department currently uses Administrative Order-05 (Background Investigation Checks) to background investigation Screen Recreation Partners, Recreation Instructors, and Volunteers. Consistent with AO-05, any person volunteering with At-Risk Population - children, elderly, disabled, and those whom cannot defend themselves, must successfully pass a High-Level Background Investigation Screening. High-Level background screening includes volunteer fingerprints submitted to the Florida Department of Law Enforcement, the National FBI for a criminal background check, and a background investigation sent to the Brevard Electronic Court Application.

Commissioners requested that staff explore what options exist regarding background investigation screenings for Parks and Recreation volunteers. Staff is providing the following Options for Board consideration:

Option I: Continue to use AO-05 as the basis of determining whether a Recreation Partner, Recreation Instructor or Volunteer successfully passes the Background Investigation Screening.

Option II: Create a new Procedure specifically for the Parks and Recreation Department. The new Background Investigation Screenings procedure could contain:

- (a) more stringent criteria than in the current AO-05; or
- (b) more lenient/flexible criteria than in the current AO-05

Option III: The Recreation Partner, Recreation Instructor, or Volunteer be responsible for obtaining a High-Level Background Investigation Screening from a national, state, or local recognized and approved agency, as determined by the County. Eligibility would be determined by the League, Instructor, or Volunteer utilizing current Florida State Statutes. The Brevard County Parks & Recreation Department Affidavit of No Prior Convictions, Exhibit A, would be signed by all volunteers with a copy of all Background Investigation Screening results being submitted to Parks and Recreation department staff.

Background Screening Costs

Since January 2017, the Parks and Recreation Department has required and paid for all of the Recreation Partner, Recreation Instructor and Volunteer Background Investigation Screenings. The following options are presented for consideration.

Option A: The Parks and Recreation Department continue to pay for all of the Recreation Partner, Recreation Instructor, and Volunteer Background Investigation Screenings.

Option B: The Parks and Recreation Department pay for one-half of the cost of the Recreation Partner, Recreation Instructor, or Volunteer Background Investigation Screenings for a period of 2 years, through July 2023. Beginning August 2023, the cost of the Background Investigation Screenings would be paid in full by the Recreation Partner, Recreation Instructor, or Volunteer.

Option C: Effective January 1, 2022, the cost of the Background Investigation Screenings would be paid in full by the Recreation Partner, Recreation Instructor, or Volunteer.

Clerk to the Board Instructions:

Provide Mary Ellen Donner, at Maryellen.donner@brevardfl.gov <<mailto:Maryellen.donner@brevardfl.gov>>, the Clerk to the Board memo with the Board of County Commissioners direction



July 21, 2021

MEMORANDUM

TO: Frank Abbate, County Manager

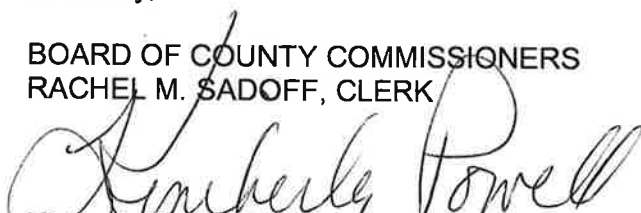
RE: Item J.2., Staff Direction for Background Investigation Screening for Parks and Recreation Department Recreation Partners, Recreation Instructors and Volunteers

The Board of County Commissioners, in regular session on July 20, 2021, approved Option I, leaving AO-05 in place; and approved Option B, Parks and Recreation Department to pay for one-half of the cost of the recreation partner, recreation instructor or volunteer background investigation screenings for a period of one year, through July of 2022, and beginning August 2022, the cost of the background Investigation screenings would be paid in full by the recreation partner, recreation instructor or volunteer.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

cc: County Attorney
Finance
Budget



BOARD OF COUNTY COMMISSIONERS

ADMINISTRATIVE ORDER

NUMBER: A0-05
CANCELS: 6/12/18
APPROVED: 7/24/20
ORIGINATOR: Human Resources
REVIEW: 7/24/23

Title: Background Investigation Checks

I. PURPOSE AND SCOPE

To establish a consistent, county-wide procedure for conducting background investigation checks.

II. DEFINITIONS AND REFERENCES

Applicant - An external applicant or volunteer being considered for a position or a current employee being considered for a position with a higher security level as the result of a promotion, transfer or demotion.

B. At-Risk Population- Children, elderly, disabled, and those whom cannot defend themselves. Example of settings in which individuals come into contact with at-risk populations include, but are not limited to:

- Daycare: senior citizen centers and community day programs for children.
- Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
- Program activities involving children on school property.
- Shelters: homeless, domestic violence or special needs emergency shelters.
- Youth development programs.
- Volunteer programs for the elderly or individuals with disabilities; such as, Meals on Wheels or other community/volunteer programs.
- Library areas/programs designated for children.
- Park areas/programs designated for children.

C. Background Investigation Handbook - a handbook with detailed information about how to complete and interpret the background checks.

D. Background Checklist - a form used to track the results of the background checks performed by the Department/Office.

- E. Conviction - defined as a law violation where there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to the question of law violation on the application will not automatically bar the applicant from employment. The nature, job relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

- F. Recertification - Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.

G. **SECURITY LEVELS:**

High Level (Level I) - Applies to an employee or volunteer who has unsupervised access and/or contact with individuals identified as being in the at-risk population.

Moderate Level (Level 11) - Applies to an employee or volunteer who has supervised access and/or contact with individuals identified as being in the at-risk population.

Low Level (Level 111) - All other employees or volunteers who do not fit into the High or Moderate security levels.

- H. VECHS - an acronym for the Volunteer & Employee Criminal History System at the Florida Department of Law Enforcement (FDLE). The VECHS program agreement allows Brevard County to submit state and national checks for employees and volunteers, as needed.
- I. F.S. 112.011 - Felon; removal of disqualifications for employment, exceptions.
- J. F.S. 943.04351 - Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

III. **RESPONSIBILITIES**

- A. Each Department/Office Director shall establish a background investigation check procedure which ensures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.
- C. Each Department/Office shall be responsible for verifying that each applicant

meets the requirements for the job, including educational and/or licensing verification, driver's license check.

- D. Each Department/Office shall be responsible for checking and documenting a total of three (3) of the applicant's employment and/or personal references. Document if the applicant has insufficient work history (i.e.; a student with no experience or someone returning to the workforce after a long absence) or is a volunteer. Due diligence must be used in obtaining these references, but if no response is received, documentation should be made of what efforts were made. Reference checks are not mandatory for those temporary employees hired on a seasonal basis.

The Background Investigation Handbook has detailed instructions and reference forms to be used in checking these references.

- E. Each Department/Office shall perform the required minimum criminal background investigation checks at the appropriate security level for applicants under final consideration and document the results on the Background Checklist, which shall be provided to the Office of Human Resources with the background documents.

1. High-Level Security Check (Level I):

- Fingerprints - submit fingerprints to FDLE under the VECHS agreement using digital fingerprint machine or using the fingerprint card provided for FDLE and National FBI criminal investigation check.
- Brevard electronic Court Application (BECA): www.brevardclerk.us

2. Moderate-Level Security Check (Level II):

- FDLE: <https://web.fdle.state.fl.us/search/app/default>
- Brevard Electronic Court Application (BECA): www.brevardclerk.us
- National Sex Offender Public Website: www.nsopw.gov
- Out-of-State criminal checks based on past seven (7) years address history (on-line checks may be done, if available), or alternatively a national background check.

3. Low-Level Security Check (Level III):

- Brevard Electronic Court Application (BECA): www.brevardclerk.us
- National Sex Offender Public Website: www.nsopw.gov
- Florida Department of Corrections: www.dc.state.fl.us
- Out-of-Area criminal checks based on past two (2) years address history (on-line checks may be done, if available).

- F. Applicants under final consideration for positions classified as high security level shall be subject to the following guidelines for criminal background checks.

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought.

1. A prior conviction of any of the following criminal offenses, if a felony or first-degree misdemeanor, is considered to be directly related to any high-level security position, regardless of when it occurred, and will disqualify an applicant from further consideration:

- Child Abuse, Neglect or Abandonment
- Extortion
- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
- False imprisonment
- Hate Crime
- Indecent Exposure if Sexual in Nature
- Kidnapping
- Manslaughter
- Child Pornography
- Illegal Possession of Guns or Weapons
- Robbery
- Sale of Controlled Substance
- Sexual Offense (Lewd and Lascivious- Sexual Battery)
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

2. A prior conviction of any of the following criminal offenses, if a felony or first-degree misdemeanor, is considered to be directly related to any high-level security position if it occurred within five (5) years of the date of the background check, and will disqualify an applicant from further consideration:

- Battery/Assault
- Domestic Violence
- Misdemeanor Drug and/or Paraphernalia
- Resisting Arrest with Violence
- Sale of Alcohol or Tobacco to a Minor
- Contributing to the Delinquency of a Minor
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

A prior conviction of one of the above criminal offenses, if a felony or first degree misdemeanor, that occurred beyond five (5) years of the date of the background check, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and the applicant is disqualified from further consideration.

- 3. A prior conviction for any of the following criminal offenses, if a felony or a first-degree misdemeanor, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and if the applicant is disqualified from further consideration:**

- Disorderly Conduct/Trespassing
- Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
- Petty Theft
- Worthless Checks
- Other Crimes
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

- G. When determining whether a prior criminal conviction for any of the criminal offenses listed in Section F above are directly related to a high, moderate or low-level security position, an appointing authority shall take the following factors into consideration:

- The classification of the crime as a felony or first-degree misdemeanor
- The relationship between the incident and the type of employment or service that the applicant will provide.
- The nature, severity, number, and consequences of the incidents disclosed.
- The amount of time elapsed since the incident(s) occurred.
- The applicant's efforts and success at rehabilitation.
- The age of the applicant at the time of the incident.

If there is any question about whether the criminal offense is directly related to the position, contact the County Attorney's Office.

- H. After the background investigation checks are satisfactorily completed, the Department/Office can initiate the request for the applicant to be hired to a paid position or coordinate a start date for a volunteer placement.

IV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.


Frank Abbate, County Manager


DATE

Exhibit A



Brevard County Parks & Recreation Department AFFIDAVIT OF NO PRIOR CONVICTIONS

State of Florida, County of Brevard

Before me this day personally appeared _____ who, being duly sworn, deposes and says:
(Applicant's Name)

As an applicant, entity, organization, individual, volunteer or group desirous of employment or a partnership with Brevard County Parks and Recreation Department, I affirm and attest under penalty of perjury that I meet the moral character requirements, as defined in Chapter 435 Florida Statutes in that:

I have not been arrested with disposition pending or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction for any of the offenses listed below:

Relating to:

Section 393.135	sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct
Section 394.4593	sexual misconduct with certain mental health patients and reporting of such sexual misconduct
Section 415.111	adult abuse, neglect, or exploitation of aged persons or disabled adults or failure to report of such abuse
Section 741.28	criminal offenses that constitute domestic violence, whether committed in Florida or another jurisdiction
Section 777.04	attempts, solicitation, and conspiracy
Section 782.04	murder
Section 782.07	manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
Section 782.071	vehicular homicide
Section 782.09	killing an unborn child by injury to the mother
Chapter 784	assault, battery, and culpable negligence, if the offense was a felony
Section 784.011	assault, if the victim of offense was a minor
Section 784.021	aggravated assault
Section 784.03	battery, if the victim of offense was a minor
Section 784.045	aggravated battery
Section 784.075	battery on a detention or commitment facility staff member or a juvenile probation officer
Section 787.01	kidnapping
Section 787.02	false imprisonment
Section 787.025	luring or enticing a child
Section 787.04(2)	taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor with criminal intent
	pending custody proceedings
Section 787.04(3)	leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor
Section 790.115(1)	exhibiting firearms or weapons at a school-sponsored event, on school property, within 1,000 feet of a school
Section 790.115(2) (b)	possessing an electric weapon or device, destructive device, or other weapon on school property
Section 794.011	sexual battery
Former Section 794.041	sexual activity with or solicitation of a child by a person in familial or custodial authority
Section 794.05	unlawful sexual activity with certain minors
Section 794.08	female genital mutilation
Chapter 796	prostitution
Section 798.02	lewd and lascivious behavior
Chapter 800	lewdness and indecent exposure
Section 806.01	arson
Section 810.02	burglary
Section 810.14	voyeurism, if the offense is a felony
Section 810.145	video voyeurism, if the offense is a felony
Chapter 812	theft and/or robbery and related crimes, if a felony offense
Section 812.014	coordinating the commission of theft in excess of \$3,000
Section 812.0145	theft from persons 65 years of age or older
Section 812.019	dealing in stolen property
Section 812.13	robbery
Section 812.131	robbery by sudden snatching
Section 812.133	carjacking
Section 812.135	home invasion robbery
Section 817.563	fraudulent sale of controlled substances, if the offense was a felony
Section 825.102	abuse, aggravated abuse, or neglect of an elderly person or disabled adult
Section 825.1025	lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult

Exhibit A

Section 825.103	exploitation of disabled adults or elderly persons, if the offense was a felony
Section 826.04	incest
Section 827.03	child abuse, aggravated child abuse, or neglect of a child
Section 827.04	contributing to the delinquency or dependency of a child
Former Section 827.05	negligent treatment of children
Section 827.071	sexual performance by a child
Section 836.05	extortion
Section 843.01	resisting arrest with violence
Section 843.025	depriving a law enforcement, correctional, or correctional probation officer means of protection or communication
Section 843.12	aiding in an escape
Section 843.13	aiding in the escape of juvenile inmates in correctional institution
Chapter 847	obscenity
Section 874.05	causing, encouraging, soliciting, or recruiting another to join a criminal street gang
Chapter 893	drug abuse prevention and control, if the offense was a felony of the second degree or greater
Section 916.1075	sexual misconduct with certain forensic clients and reporting of such sexual misconduct
Section 944.35(3)	inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm
Section 944.40	escape
Section 944.46	harboring, concealing, or aiding an escaped prisoner
Section 944.47	introduction/removal/possession of contraband at a correctional facility
Section 985.701	sexual misconduct in juvenile justice programs
Section 985.711	introduction/removal/possession of contraband at a juvenile detention facility or commitment program

I understand that I must acknowledge the existence of any applicable criminal record relating to the above lists of offenses including those under any similar statute of another jurisdiction, regardless of whether or not those records have been sealed or expunged. Further, I understand that, while employed, contracted or volunteering with Brevard County Parks and Recreation Department in any position that requires background screening, I must immediately notify the appropriate supervisor and or representative of the Parks and Recreation Department of any arrest and any changes in my criminal record involving any of the above listed provisions of Florida Statutes or similar statutes of another jurisdiction whether a misdemeanor or felony. This notice must be made within one business day of such arrest or charge. Failure to do so could be grounds for termination.

I attest that I have read the above carefully and state that my attestation here is true and correct that **my record does not contain any of the above listed offenses**. I understand, under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment, contracting or volunteering and agreeing to inform the Parks and Recreation Department immediately if arrested for any of the disqualifying offenses. I also understand that it is my responsibility to obtain clarification on anything contained in this affidavit which I do not understand prior to signing. I am aware that any omissions, falsifications, misstatements or misrepresentations may disqualify me from employment, contractor or volunteer consideration and, if I am hired, contracted or selected as a volunteer, may be grounds for termination or denial of an exemption at a later date.

SIGNATURE OF AFFIANT: _____

Sign Above OR Below, DO NOT Sign Both Lines

To the best of my knowledge and belief, **my record contains one or more of the applicable disqualifying acts or offenses listed above. I have placed a check mark by the offense(s) contained in my record.** (Please circle the number which corresponds to the offense(s) contained in your record.)

SIGNATURE OF AFFIANT: _____

Sworn to and subscribed before me this _____ day of _____, 20__.

SIGNATURE OF NOTARY PUBLIC, STATE OF FLORIDA

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Check one)

☐ Affiant personally known to notary

OR

☐ Affiant personally known to notary

Type of identification produced: _____