

Review of District Policy to Implement Background Checks for Applicants for Jobs Requiring Access to FTI

IRS Publication 1075 Requirements Checklist

(IRS Publication 1075 §§ 5.1; 5.2)

Pursuant to Publication 1075 and 17-ADM-08, all district policies regarding background investigations of applicants must:

- Identify jobs that require access to FTI and include a notification of the background investigation requirement in the posting
- Advise applicants that a criminal record does not necessarily disqualify them from employment or from access to FTI, and that an individualized determination will be made as to how any conviction would impact their suitability to handle FTI.
- Require fingerprinting of applicants, an FBI Criminal History Record Information check, and review of FBI fingerprint results to identify possible suitability issues.
- Contact local law enforcement agencies where the subject has lived, worked, and/or attended school within the last 5 years:
 - Obtain an executed authorization to release information from the applicant.
 - Obtain a list of each address where the applicant lived, worked, and/or attended school during the previous 5 years.
 - Forward a copy of the authorization to the local law enforcement agencies in each town, city, or county where the applicant lived, worked, and/or attended school and request information about any identifiable arrests.
 - If any arrests have been identified by the local law enforcement agency, contact the law enforcement agency that conducted the arrest for details.
- Validate the subject's citizenship/residency eligibility to legally work in the United States by completing USCIC Form I-9.
- Within 3 days of completing the USCIC Form I-9, process any **new** employee through E-Verify.
 - Document any employee with expiring employment eligibility and monitor for continued compliance.
- Review the results of the background investigation to determine suitability for access to FTI using the criteria set out in NYS Correction Law Article 23-a.

- Make a written record of the findings, setting forth how each of the criteria were considered and the reason for the determination.
- Provide, within thirty days of the request, a written statement setting forth the reasons for the determination if requested by any applicant deemed unsuitable for access to FTI.
- Retain written determinations for a period of 10 years or until the employee no longer has access to FTI, whichever is sooner.
- Conduct a reinvestigation within 10 years from the date of the previous background investigation.
- Ensure confidentiality of all records and information related to criminal background checks obtained through DCJS by marking all such information as “confidential” and maintaining in a separate and confidential file.