

MOHAVE COUNTY SUPERIOR COURT POLICY AND PROCEDURE

TITLE: 1.04 EMPLOYMENT QUALIFICATIONS REVIEW

EFFECTIVE DATE: 10/30/18

REVISED DATE:

A. Purpose:

This policy and procedure defines the background investigation requirements that must be satisfactorily completed for initial and continuing employment with the Superior Court. As a criminal justice agency, the Superior Court has the authority to inquire into the past criminal conduct of prospective and current employees through the Arizona Criminal Justice Information System (ACJIS) and the Arizona Central State Repository pursuant to the provisions of A.R.S. § 41-1750 (G1).

B. Scope of Coverage:

Prospective and current employees of the Clerk of Superior Court and Superior Court divisions are covered by this procedure. In addition, non-CASA volunteers, and interns in each of these divisions are covered under the fingerprinting and criminal background check process as described below.

[Note: Prospective and current employees of the Mohave County Probation Department, including Juvenile Detention, and CASA volunteers are excluded from this policy and procedure because they are governed by the following sections of the Arizona Code of Judicial Administration:

Probation – Section 6-106: Personnel Practices; State of Arizona Juvenile Detention Standards, Arizona Supreme Court Administrative Directive 2016-07;

CASA – Section 7-101: Court Appointed Special Advocate Program.]

C. Employment Qualifications Review:

Division Heads, or their assigned designee, shall conduct an employment qualifications review on all prospective employees filling at-will, regular, temporary and on-call appointments. The employment qualifications review shall include, but is not limited to:

- Verification of required educational or certification requirements for the position applied for;
- Verification of current and past employment, which includes documented good faith efforts to contact employers to obtain information or recommendations which may be relevant to the individual's qualifications for employment; and
- Checking professional and personal references provided.

Division Heads are to document the results of the employment qualifications review on the 'Employment Qualifications Review' Form. If the results of this review are satisfactory, the Division Head shall document their selection decision on the 'Certification and Selection of Eligibles Notice and Action Form' for forwarding to the Superior Court Human Resource office along with all applications reviewed for the position. The Superior Court Human Resource office shall review the selection decision to determine if the requested rate of pay requires approval in accordance with Superior Court Policies and Procedures, Section 7, Compensation, and whether the provisions of Superior Court Policies and Procedures 3.01, Employment of Relatives, regarding employment of relatives applies. If approvals are necessary, the Superior Court Human Resource office shall facilitate the process of obtaining the necessary approval(s).

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D. Character and Fitness Investigation:

Prospective employees are required to submit to and successfully complete the following post-offer requirements.

Fingerprinting and Criminal Background Check:

Employees and representatives of the Superior Court must be of the highest integrity and beyond suspicion of personal behaviors which are in conflict with the law. Past history of criminal convictions may result in an applicant being disqualified for employment with the Superior Court. All prospective employees, non-CASA volunteers, and interns must complete the fingerprinting and criminal background check process as outlined as follows:

1. Court Division Heads, or their assigned designee, shall notify the Superior Court Human Resource office in writing of any prospective employee, non-CASA volunteer, and intern appointments.
2. The Superior Court Human Resource office shall schedule the individual for fingerprinting and shall notify the Court Security Manager by phone or email with the name of the individual who is to undergo fingerprinting and criminal background check.
3. Prior to obtaining fingerprints, the Court Security Manager shall obtain the individual's written authorization and release of liability. The Court Security Manager shall complete the criminal background check by 1) running a computer criminal background check through the Arizona Criminal Justice Information System (ACJIS); and 2) processing the fingerprint card through the Arizona Department of Public Safety for processing through the National Criminal Information Center (NCIC) database.
4. The Court Security Manager shall provide the results of the ACJIS computer criminal background check to the Superior Court Human Resource Manager or assigned designee.
5. If no criminal history is identified, the Superior Court Human Resource office shall notify the Division Head and the prospective employee shall be hired as a conditional hire contingent upon successful completion of the processing of the fingerprint card.
6. If a criminal history is identified, the Superior Court Human Resource Manager, or assigned designee, shall review the results of the criminal background check process with the Division Head for the purpose of evaluating the fitness of the prospective employee for employment with the court. In accordance with policy statements from the Equal Employment Opportunity Commission (EEOC) compliance manual, the following factors shall be taken into consideration when determining whether to hire an applicant or terminate the employment of a conditionally hired employee.
 - The nature and gravity of the offense or offenses;
 - The number of offenses for which the individual was convicted;
 - The amount of time that has passed since the conviction and/or the completion of the sentence; and
 - The overall nature and specific duties of the position held or sought.

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7. The Court Security Manager shall provide the National Crime Information Center (NCIC) fingerprint card results to the Superior Court Human Resource Manager, or assigned designee.

- a) If a criminal history is found to exist, the Superior Court Human Resource Manager, or assigned designee, and involved Division Head shall meet to review and evaluate the fitness of the prospective employee for continued employment with the court.

8. Disqualifications:

In addition to the disqualifications listed in Judicial Merit System Rule 203 (C), upon concurrence of the Court Administrator, a Division Head may disqualify an applicant when it is found that the individual:

- a) Has made a false statement(s) of material fact in the application or during the interview process.
- b) Has used or attempted to use political pressure or bribery to secure an advantage in the examination or in the appointment to a position in the Superior Court.
- c) Has been convicted of any crime involving the use of narcotics or habit forming drugs and/or trafficking in narcotics or dangerous drugs.
- d) Was convicted of other than minor traffic offenses as an adult and
 - Is presently under formal supervision, probation or parole, or
 - Less than five (5) years has elapsed between the date of release from formal supervision and the date of the employment application, or
 - Less than five (5) years has elapsed between the date of offense and the date of the employment application if the person is not formally placed under supervision.
- e) Was adjudicated delinquent as a juvenile and
 - Less than three (3) years have elapsed between the date of delinquency and the date of the employment application if the person was not formally placed under supervision, or
 - Less than three (3) years have elapsed between the date of release from supervision and the date of application.
- f) Has been convicted for a sex offense, engaging in immoral or illicit business activity or who has a chronic offense pattern.
- g) Is known to engage in behavior which is in conflict with the law, philosophy or goals of the court or which would place the individual or Court in a position of compromise, embarrassment, undue criticism or loss of public credibility.

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9. **Records Retention:**

The fingerprint cards and criminal background results shall be retained by the Superior Court Human Resource office in confidential files. Access to the criminal background check information is restricted to those individuals included on Court's authorized agency personnel list.

Any employee who misuses fingerprint and/or criminal background information obtained under A.R.S. §41-1750 and/or this policy and procedure for other than employment determinations or who permits unauthorized access to or release of or procures the unauthorized release of any such criminal background information, including the confirmation of the existence of any such criminal background information, will be subject to disciplinary action up to and including dismissal.

Driving Records Check:

A driving records check shall be conducted for all prospective employees as part of the ACJIS criminal history background check. The driving records check shall be processed through the Motor Vehicle Division (MVD) of the Arizona Department of Transportation and through the MVD of any other previous state(s) of residence.

Credit Check:

A Division Head may request that applicants being considered for positions with financial responsibility undergo a credit check, which shall be done in accordance with the provisions of the Fair Credit Reporting Act (FCRA).

E. Continuing Employment Requirements:

Training:

Each court division shall ensure that employees within their division are provided access to and training regarding the Code of Conduct for Judicial employees. Each employee receiving such training shall certify that they have received training.

Notice Requirements:

Employees must notify their immediate supervisor in writing of receipt of any of the following listed actions within one (1) business day after such action.

1. Citation
2. Arrest
3. Conviction
4. Court Order
5. Warrant

Upon receipt of such written notification the Division Head shall review the employee's continued fitness for their position. An employee who engages in conduct which is in conflict with the law, philosophy or goals of the court or which would place the employee or the Court in a position of compromise, embarrassment, undue criticism or loss of public trust or credibility may be subject to disciplinary action up to and including dismissal in accordance with the provisions of the Judicial Merit System Rules.

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Periodic Criminal Background and MVD Checks:

As a continuing condition of employment, employees, non-CASA volunteers, and interns shall submit to fingerprinting, criminal background and MVD records check, at a minimum of every two (2) years. The processing of such checks shall be coordinated by the Superior Court Human Resource office and the Court Security Manager. Additionally, employees filling positions with financial responsibility may be required to undergo a credit-check every two (2) years, as requested by their Division Head.

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Mohave County Superior Court

List of Authorized Individuals with Access to Criminal Background Check Information

Presiding Judge

Presiding Superior Court Judge

Division Heads

Court Administrator or assigned Division Head

Chief Probation Officer

Clerk of the Superior Court

Court Technology Director

Director of Juvenile Court Services

Human Resources Staff

Human Resource Manager

Human Resource Technician

Court Security

Court Security Manager