ARIZONA DEPARTMENT OF ADMINISTRATION
STATEWIDE POLICIES AND PROCEDURES

Policy Number: ASPS/HRD-PA3.07	**Issued:** April 7, 2015
Subject: Disqualification for Consideration of Employment	**Effective:** April 7, 2015
Policy Section: Recruitment, Selection, and Appointment	**Revised:** N/A
Policy Owner: ADOA Human Resources Division	

This policy does not create a contract for employment between any employee and the State. Nothing in this policy changes the fact that all uncovered employees of the State are at will employees and serve at the pleasure of the appointing authority.

Scope:

This policy applies to all applicants for employment, including former State employees, with all agencies, boards or commissions within the State Personnel System (SPS).

Authority:

A.R.S. § 41-746 Refusal of consideration for employment; verification of education and work history
A.A.C. R2-5A-303 Reference and background checks
A.A.C. R2-5A-304 Qualifications of selected candidate

Definitions:

"Deception or Fraud" means the act of making untruthful statements or misrepresenting facts about an applicant's suitability or qualifications for employment with any SPS agency.

"Egregious act of misconduct" includes, but is not limited to, the following:

a. Any act of physical violence and/or serious threats of bodily harm;
b. Theft or misappropriation of State property;
c. Commission of a felony that was committed in the course of State employment;
d. Any act of abuse or neglect of a client, inmate, or other vulnerable person.

Policy:

This policy explains the conditions under which applicants and former employees will be considered for hire/rehire and establishes Arizona Department of Administration (ADOA) authority to find certain individuals 'unsuited or not qualified for employment' with any SPS agency.

Procedure:

General:

The SPS Employment Manager shall be responsible for coordinating the activities involving the eligibility process.

A.R.S. § 41-746 gives the Director the authority to refuse to consider an applicant for employment or remove from consideration for employment under certain circumstances including but not limited to any deception or fraud in the applicant's application. It is the policy of the State of Arizona that an applicant/employee will be disqualified from future State employment if that individual:

1. Practiced any deception or fraud during a hiring process.
2. Was separated from State employment for an egregious act of misconduct.

Procedure Relating to Deception or Fraud During a Hiring Process (All Applicants):

1. If an agency head believes an applicant is unsuitable for employment with the State of Arizona, the agency head or designee may submit a Disqualification from State Employment Request Form for consideration to the SPS Employment Manager within 30 calendar days from the date of the incident resulting in the need for the request. Any applicant may be designated as unsuited for employment if the applicant makes a material falsification in any stage of the application or hiring process. A falsification is material if it would have adversely impacted the agency's evaluation of the candidate.
2. The SPS Employment Manager will review the request and determine if the applicant is unsuitable or not qualified for employment.
3. The unsuitable applicant or former State employee will be sent, by certified mail, a notice of the decision disqualifying that individual from employment. The SPS Employment Manager is responsible for sending the letter to the disqualified individual within 10 business days from the date of the original request. The letter will clearly state the reason(s) for the decision. The letter shall also include a notice of the individual's right to contest or request reconsideration of the decision, and shall include a description of the requirements set forth below.
4. If an applicant is determined to be unsuitable for future employment with the State, the Talent Acquisition (TA) Administrator will make the proper designation on the respective applicant's profile in the TA system.
5. All agency Human Resources offices shall check to determine whether an applicant, including a former employee, has been disqualified for employment in TA prior to providing an applicant consideration for employment with the State of Arizona. Applicants and/or former employees who have been deemed disqualified for future employment shall no longer be considered for State employment by any SPS agency.

Procedure for Disqualification for Conducting an Egregious Act of Misconduct (Former State Employees):

1. If an employee is terminated for an egregious act of misconduct, the respective agency head or designee may submit a Disqualification from State Employment Request Form for consideration to the SPS Employment Manager within 30 calendar days from the date of separation.
2. The SPS Employment Manager will review the request and determine whether the grounds for dismissal render the employee unsuitable for future State employment. The Employment Manager will defer any decision on suitability until all appeal rights have been exhausted by a covered employee at the State Personnel Board or Law Enforcement Merit System Council.
3. The unsuitable applicant or former State employee will be sent, by certified mail, a notice of the decision disqualifying that individual from employment. The SPS Employment Manager is responsible for sending the letter to the disqualified individual within 10 business days from the date of the original request or within 10 business days of resolution of an appeal. The letter will clearly state the reason(s) for the decision. The letter shall also include a notice of the individual's right to contest or request reconsideration of the decision, and shall include a description of the requirements set forth below.
4. The SPS Employment Manager may designate a former State employee as unsuited for future state employment if the former employee was dismissed for an egregious act of misconduct.
5. All agency Human Resources offices shall check to determine whether all applicants, including former employees, have been disqualified for employment in TA prior to

providing an applicant consideration for employment with the State of Arizona. Applicants and/or former employees who have been deemed disqualified for future employment shall no longer be considered for State employment by any SPS agency.

6. The foregoing process shall also apply in the event a former employee resigned in lieu of dismissal for an egregious act of misconduct.

Review Process (Applicants and Former Employees):

1. If the unsuitable applicant or former State employee wishes to contest the disqualification, the individual is required to send a letter, by certified mail, to the SPS Human Resources Director within 10 business days from the date of the notification letter. The letter must clearly describe why the events that resulted in the disqualification should not disqualify the applicant. Failure to respond within 10 working days will automatically result in disqualification unless the unsuitable applicant or former State employee can demonstrate mitigating circumstances to justify why the letter was not submitted within the proper timeframe.
2. The SPS Human Resources Director will review the circumstances and make a final determination within 10 business days from the date of the request for reconsideration. The SPS Human Resources Director will send a letter, by certified mail, to the applicant notifying him/her of the final decision. The decision of the SPS Human Resources Director is the final step in the reconsideration process. The final notification shall also include a statement to the disqualified applicant or former employee alerting them that they are required to declare their status as disqualified for State employment to any SPS agency for a minimum of ten years. Failure to declare their disqualified status will result in further action including, but not limited to, removal from further consideration to potential dismissal from State employment should they inadvertently become employed.

Final Disposition:

1. The disqualification is not effective until one of the following occurs:
   a. The applicant or former State employee signs for receipt of the disqualification notice personally served or served by mail at their last known address;
   b. Three business days have passed since the disqualification notice was mailed to the last known address of the applicant or former State employee; or
   c. An attempt is made to personally serve the disqualification notice, but the applicant or former State employee refuses to sign for the letter. Such attempt to personally serve the letter shall be witnessed.
2. A copy of the final disqualification notice shall go into the former State employee's personnel file.
3. A determination of unsuitability will remain in effect for a minimum of ten years from the date of disqualification. After ten years, an applicant or former State employee may request that the SPS Human Resources Director reconsider the designation.

Related Forms/Attachments:

Disqualification from State Employment Request Form
Application for Employment Form

Corresponding Policies:

Not applicable

Contact:

If you have any questions related to this policy, please contact the ADOA Human Resources Division, Employment Section.