



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF, G-1
6010 6TH STREET BLDG 1465
MAIL STOP 5595
FORT BELVOIR, VIRGINIA 22060

MAY 16 2014

DAPE-CPN

MEMORANDUM FOR ARMY NAF HUMAN RESOURCES OFFICES

SUBJECT: Requirement to Use Applicable Processes Under AR 215-3 after an Unfavorable Suitability Determination under DoDI 1402.5

1. References:

a. Army Regulation (AR) 215-3, NAF Personnel Policy, 29 August 2003.

b. Department of Defense Instruction (DoDI) 1402.5, 19 January 1993, subject: Criminal History Background Checks on Individuals in Child Care Services.

2. The purpose of this memorandum is to emphasize that the applicable procedural protections of AR 215-3 must be provided in connection with follow on actions after a final unfavorable suitability determination is made under DoDI 1402.5.

3. When an employee encumbering a child care services position has been determined by an authorized official to be unsuitable for such position under DoDI 1402.5, the employee's supervisor must consider the appropriate follow on action for the individual case, e.g., reassignment, separation from a flexible appointment, separation based on disqualification, and so forth. The NAF Human Resources Office will advise and assist the supervisor in initiating such action, to include providing a technical review of any notice of proposed separation prepared by the supervisor. If the notice and procedures of AR 215-3, para 7-9, apply, the notice of proposed separation and the decision must also be coordinated with the servicing legal office.

4. The employee must be given the notice and procedures required by AR 215-3, Chapter 2 or Chapter 7, as applicable to the given case. This may include advance written notice, an opportunity to review the material relied upon, an opportunity to reply, a written decision, and a right to grieve the decision IAW AR 215-3, Chapter 8, if applicable.

5. Also, IAW AR 215-3, para 2-13i(6), and DoDI 1402.5, Encl 6, para E6.6.5, individuals whose criminal history background checks result in non-selection for employment or service must be informed of the right to an administrative appeal under 32 C.F.R. Part 310, DoD Privacy Program.

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6. Activities are also reminded to satisfy any applicable labor relations obligations.



SANDRA G. CURRAN
Director, NAF Human Resources
Policy and Programs Division

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OFFICE, ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS), ATTN: SAMR-CQ

OFFICE OF THE GENERAL COUNSEL, ATTN: SAGC (MS. JOHNSON)

OFFICE OF THE JUDGE ADVOCATE GENERAL, ATTN: DAJA-LE (MS. NUGENT)

SC1403.3.1.2. While a continuing position generally is established without specific time limitation, a "term appointment" of not less than one year or more than five years may be specified.

SC1403.3.2. Flexible. Flexible employees serve in either continuing or temporary positions. The work may be scheduled in advance or on an "as-needed" basis.

SC1403.4. EMPLOYEE QUALIFICATION AND SUITABILITY REQUIREMENTS

SC1403.4.1. Qualification Requirements. Job qualification requirements must be based on factual job duties and established in a manner that encourages competition for the job with the goal of hiring the most qualified person available.

SC1403.4.2. Suitability Requirements. In addition to routine review of an applicant's job application and associated reference checks, the following requirements shall be met, where applicable:

SC1403.4.2.1. DoD Personnel Security Program. Compliance with DoD 5200.2-R (reference (c)) is required before placing an individual in a position of trust; such positions are designated by Heads of Components. 5 CFR 731 (reference(d)), shall be used as a guide in making suitability determinations. An individual who does not meet suitability requirements may not be employed without prior approval of the local commander.

SC1403.4.2.2. Criminal History Background Checks on Individuals in Child Care Services. The term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. DoD Instruction 1402.5 (reference (e)) establishes policy, assigns responsibilities, and prescribes procedures for criminal history background checks for all existing and newly hired individuals involved in the provision of child care services as Federal employees, contractors, or in Federal facilities, to children under the age of 18. The Instruction allows the Department of Defense to provisionally hire such individuals before the completion of a background check; however, at all times while children are in the care of that provisionally hired child care provider, that provider must be within sight and under the supervision of a staff person whose background check has been successfully completed.