



Salt River
PIMA-MARICOPA INDIAN COMMUNITY
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Education Department
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DISQUALIFIERS FOR EMPLOYMENT INVOLVING CHILDREN

CRIMINAL HISTORY AUTOMATIC DISQUALIFIERS

A person may not be employed or volunteered in any position which involves the provision of care or services to, or regular contact with, children if he/she has been convicted of, or has admitted to in open court or pursuant to a plea agreement, any of the following crimes:

- Crimes of Sexual: Assault
Molestation
Exploitation, including commercial exploitation
Contact
Conduct with a Minor
Abuse of a minor

- Crimes of Prostitution or of Incest

- Crimes against persons

Includes all crimes against persons:

Exception -- for the purpose of this policy only, if **all** of the following requirements are met, a crime shall not be included as a disqualifying crime if:

1. The crime is not a sexual crime listed above or a crime against children; **and**
2. The adjudicator determines all of the following:
 - (a) Any sentence, probation or parole ended any fine or restitution was paid in full at least 5 years prior to the adjudicator's determination; and
 - (b) There are no other convictions for any other crime against a person or any crime bearing on the person's fitness to have responsibility for the safety and well-being of children; and
 - (c) The adjudicator reviews public criminal records checks for all jurisdictions in which the person has lived since age 18 (if a record check is unavailable for a jurisdiction, an informal check must be done through a reasonable source); and
 - (d) The adjudicator reviews criminal history records checks from NCIC and ACIC and, to the extent possible, for any Indian Reservation on which the person lived or worked from age 18; and
 - (e) Previous employment at the time of and since the conviction has been verified; and
 - (f) The adjudicator is satisfied that the event was an isolated incident and not part of a pattern of conduct.

- Crime of exploitation of minors involving drugs
- Crime of first-degree murder
- Crime of armed robbery
- Dangerous crime against children

* Please note that an employee who has appeal rights may dispute only the accuracy of the information regarding a mandatory disqualifier. Because the Community is prohibited by law from hiring or retaining an employee whose history reveals a mandatory disqualifier, the employee may not dispute the decision to terminate unless the employee has first shown that the information is false.

DISCRETIONARY DISQUALIFIERS

1. In addition to the Automatic Disqualifiers, a person may be denied the opportunity (including termination or denial of employment) to be an SRP-MIC employee or volunteer in any position which involves provision of care or services to, or regular contact with, children if he/she has been convicted of, or has admitted to in open court or pursuant to a plea agreement, any of the following crimes:

- Arson
- Felony offense involving contributing to the delinquency of minor
- Drug Offense
- Burglary
- Any crime involving children

2. A person may also be denied the opportunity (including termination or denial of employment) to be an SRP-MIC employee or volunteer in any position which involves provision of care or services to, or regular contact with, children if he/she:

- Was the caretaker of a child at the time the child was removed from it home if the child was later adjudicated to be a dependent child.
- Was denied, or had revoked, a license to operate a facility (including home day care or foster care) for the care of children in any jurisdiction.
- Was responsible in whole or in part for any action or inaction which harmed or could potentially harm the safety or well-being of child.

FACTORS IN EVALUATING DISCRETIONARY DISQUALIFIERS

1. The nature of the crime: e.g., felony or misdemeanor; the potential for crimes against children: etc...
2. Whether the offense was committed as a minor for which proceedings were held under the jurisdiction of juvenile or adult court.
3. Whether the offense has been expunged, and if so, why.
4. Whether the incident occurred/crime was committed more than 10 years before the adjudicator's consideration of whether to hire or terminate the person.
5. The employment record of the person since the commission of the crime if the crime was committed more than 10 years before the adjudicator's consideration of whether to hire or terminate the person.
6. The reliability of the evidence of an admission of a crime unless made under oath in a court of competent jurisdiction.
7. With regard to non-criminal matters, the totality of the circumstances surrounding the matter.
8. Any other matter having meaningful bearing on the fitness of the person to have responsibility for the safety and well-being of children.

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