

OCCUPATIONAL LICENSES AND BACKGROUND SCREENINGS BY STATE AGENCIES¹

What is an occupational license?

Florida law requires that workers obtain a license to work in certain jobs involving positions of trust, such as security guards, private investigators, attorneys, teachers, etc. The licensing process involves a criminal background check.

What is background screening by a state agency?

Even where no occupational license is required, Florida law requires a criminal background screening by a state agency for certain other jobs involving work with the elderly, ill, disabled, and children. Examples include day care workers and nurses assistants. In addition, Florida and federal law may require a criminal background screening for jobs connected with the ports, modes of transportation or other sensitive positions.

What is the application process?

The application process and legal standard differ depending on the job sought. The state agency conducting the screening also depends on the job sought.

Will a criminal history record automatically disqualify a worker?

In most cases, no. However, it depends on the legal standard for the job sought and the type of criminal record. If a worker is denied a job because of the results of a criminal background check required by law, the worker should have a right to appeal the denial. Depending on the applicable law, there may be an administrative review or hearing.

What is involved in an administrative review or hearing?

The worker may be required to disprove the evidence causing the disqualification or show why he or she should be allowed to work in spite of the disqualification if the law allows an exemption from disqualification because of rehabilitation or mitigating circumstances. This most often occurs where there has been a significant lapse of time since the most recent criminal offense.

Where showing rehabilitation or mitigation, the worker usually must gather police and court documents applicable to each criminal offense, letters of recommendation from community members and past employers, evidence of education, skills or training, and other materials. The requirements vary depending on the job sought. In addition to what is required by the state agency, other types of evidence may be helpful. An attorney can suggest helpful evidence and ways to present it.

At the review or hearing, the worker will be questioned by a hearing officer or a panel of people and asked to produce evidence about his or her case. The worker is also given

¹ The information provided here is general in nature and not intended as legal advice. The laws discussed are subject to change without notice. Seek legal advice for more information.

the opportunity to make a statement. An attorney can help a worker be prepared for the types of questions that are likely to be asked. A written decision of the hearing officer or other official is usually made within 30 days of the hearing.

Is an attorney required for the administrative review or hearing?

No, but you may retain an attorney at your own expense. Legal representation is likely to increase your opportunity for success. Jacksonville Area Legal Aid, Inc. ("JALA") provides qualified applicants with free legal advice about their rights concerning these issues.

Where can I get help?

Call Jacksonville Area Legal Aid at 356-8371 for information on applying for help.

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Employment Law Project**