

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
2.21.6608, 2.21.6612, and 2.21.6613)
pertaining to the Employee Records)
Management Policy)

TO: All Concerned Persons

1. On August 18, 2017, the Department of Administration published MAR Notice No. 2-21-563 regarding a public hearing on the proposed amendment of the above-stated rules at page 1316 of the 2017 Montana Administrative Register, Issue Number 16. On September 8, 2017, the Department of Administration published an amended MAR Notice No. 2-21-563 rescheduling the public hearing and revising the proposed amendment of ARM 2.21.6612 at page 1443 of the 2017 Montana Administrative Register, Issue Number 17.

2. The department has amended ARM 2.21.6608 and 2.21.6613 as proposed.

3. The department has amended ARM 2.21.6612 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.21.6612 RECORDS THAT CONSTITUTE EMPLOYEE PERSONNEL
RECORDS (1) through (1)(h) remain as proposed.

(i) background check information, including criminal and, credit, ~~and~~
~~reference~~ checks, and employment verification;

(j) through (2) remain as proposed.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: The department received a recommendation for ARM 2.21.6612 that reference checks remain with the recruiting documentation rather than in the employee's personnel file to maintain consistency with the recruiting documentation and reduce the need to open an employee's personnel file when a recruitment is in question.

The commenter agrees that the proposal to maintain background check information, including criminal and credit checks and employment verification in the employee's

personnel file is appropriate, as this information contains personally identifiable information.

RESPONSE #1: The department agrees with the commenter and has changed ARM 2.21.6612 to remove reference check information from the Employee Personnel Record.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State January 2, 2018.