



City of Phoenix

ADMINISTRATIVE REGULATION	A.R. NUMBER 2.81
	FUNCTION Personnel and Payroll Page 1 of 6
SUBJECT BACKGROUND SCREENING	EFFECTIVE DATE February 11, 2008
	REVIEW DATE

TRANSMITTAL

This Administrative Regulation (AR) has been revised to include the requirement to conduct more extensive background screening for employees and to identify responsibilities for applicant background screening. Background screening encompasses not only a check of prior criminal histories, but also includes reference checking, reviewing employment records, and any other sources of information that would relate to an applicant's qualifications for City employment or an employee's qualifications for a transfer, promotion, or demotion. Questions regarding this AR should be directed to the Personnel Department, Employment Services Division, at (602) 495-5703.

SUMMARY OF CHANGES

This AR, formerly titled "Applicant Screening", was last revised on January 12, 1981. The AR has been expanded to require more extensive applicant and employee background screening. The policy provides guidance regarding the evaluation of screening information. The previously-defined term "sensitive position" has been eliminated.

1. PURPOSE

This Administrative Regulation describes the City policy and practice for screening applicants' and employees' backgrounds. The goal of this policy is to protect the rights of the community and of individuals. The City of Phoenix must take affirmative steps to avoid hiring individuals who represent a risk to the City or community due to factors in their background the City knew or should have known about. At the same time, the City is obligated to protect employees' privacy rights and ensure that individuals have an equal opportunity to work for the City. Applicants and employees have a right to be considered for a position without having supervisors biased by information regarding past behavior that is not related to job performance.

Fulltime, part-time, and temporary City positions are subject to this Administrative Regulation for the purpose of screening.

Volunteers may be subject to background check screening as well, depending on the volunteer assignment. Please contact your department's personnel or administrative section for additional guidance.

2. DEPARTMENT RESPONSIBILITIES

In selecting individuals for employment, departments are required to identify positions that are subject to more extensive background screening to comply with Phoenix City Code. In addition, departments should identify in advance of any selection process those criminal convictions which would disqualify a candidate based on position requirements, access, and responsibilities. Below are some examples of positions and/or activities which require closer scrutiny by departments during the background screening process:

- Provide services directly to children, youth, elderly, or individuals with disabilities
- Routine access to private property
- Routine access to sensitive records (e.g., police, court, or personnel records)
- Routine responsibility for the receipt or payment of City funds or control of inventories
- Executive or middle manager positions
- Positions which fall under Federal Aviation Administration regulations (e.g., Aviation department positions)
- Positions which fall under Federal Homeland Security regulations
- Sworn public safety positions
- Routine operation of automotive or construction equipment

Employees who provide services directly to children or vulnerable adults are subject to more extensive background screening, including fingerprint verification through the Arizona Department of Public Safety, as mandated by Phoenix City Code, Section 2-45.6.

Reference checks should be completed prior to an offer of employment, including a review of performance appraisals when possible. Departments may make a job offer contingent upon receipt of an acceptable background screening. Because the job offer is contingent on the complete background screening, candidates should be advised not to resign from their current positions.

Departments must include all of the following steps in their background screening procedures to ensure that City applicants and employees are properly screened.

A. APPLICANT BACKGROUND SCREENING (NEW HIRE) - Prior to hiring a new City employee, each of the following steps must be completed:

- **REVIEW OF EMPLOYMENT APPLICATION FOR CRIMINAL HISTORY INFORMATION.** Employment applications for all finalists for City employment should be reviewed by the hiring authority. Careful attention should be paid to any criminal convictions listed by the applicants, and any significant gaps in employment history. If the job application does not contain an answer to the question of whether the applicant has any criminal convictions, the hiring authority must ask the applicant to answer the question.

If a criminal conviction is reported, it is appropriate to ask follow-up questions, such as the date of the conviction, and other circumstances surrounding the crime. The hiring authority should also ask each applicant if he or she has been convicted of criminal offenses in this state or in any other jurisdiction, before a job offer is extended.

- **EMPLOYMENT REFERENCE CHECK.** An employment reference check is an excellent screening method and should be completed on all finalists. While some former employers and supervisors will only verify the job title and dates of employment, even this limited information is useful. The Personnel Department Employment Services Division can provide assistance to departments on reference checking.
- **LOCAL CRIMINAL HISTORY CHECK BY PHOENIX POLICE DEPARTMENT.** All finalists for City positions are required to be fingerprinted by the Phoenix Police Department. The Police Department will conduct a local name search on all finalists that will identify most outstanding warrants but only covers a limited number of local jurisdictions in addition to Phoenix. Fingerprints will only be checked in certain circumstances.
- **BACKGROUND SCREENING BY CONTRACTED VENDOR** (Contact Personnel Department, Employment Services for agency contact information). The hiring authority must request a criminal record search through the vendor contracted to conduct background screening once a contingent job offer has been extended and prior to filling the position. In compliance with the Fair Credit Reporting Act, a job candidate must sign a consent form to authorize a third-party search of their records. Should the candidate decline to consent to the background screening, the job offer must be withdrawn. The record search may include the state of Arizona plus any other jurisdiction in which the candidate has lived in the last seven years. The search may also include a driver license check if the job candidate has lived outside Arizona in the last seven years and is being offered a driving position.

Job candidates must be provided a pre-adverse letter in the event a disqualifying conviction is reported to the City by the background screening vendor. (See addendum A for Guidelines on disqualifying convictions) The job candidate should be referred to the background screening vendor if they wish to dispute the record. After five days, if the City has decided to withdraw their job offer based on the disqualifying conviction, the job candidate must be provided with an 'adverse action' letter. The City will comply with all provisions of the Fair Credit Reporting Act in the administration of background screening.

- **VERIFY EDUCATION AND/OR CERTIFICATIONS.** Post-high school education and/or professional/technical certifications (such as Professional Engineer or state bar number) should be verified if the education or certification is required for the job or was a major factor in selecting the individual as a finalist. The Personnel Department, Employment Services Division, can provide guidance to departments on education and certification verification.

- **OTHER SCREENING.** Departments are encouraged to consult with the Personnel Department, Employment Services Division, should they wish to request additional screening in selected situations. Credit checks are appropriate to conduct for specific job classifications when it is essential for the position. For executive level positions, newspaper article checks can also be performed.
- **DRIVER'S LICENSE CHECK.** A driver's license check is a mandatory step in the applicant background screening process for all driving positions, as required by Personnel Department Letter #96 (PD 96). Contact the Employee Driver Training Academy at (602) 534-6609 to request this check.

B. EMPLOYEE BACKGROUND SCREENING (PROMOTION/TRANSFER/ DEMOTION)– Prior to promoting or demoting a current City employee, or selecting a City employee for a transfer, each of the following steps must be completed:

- **REVIEW OF EMPLOYMENT APPLICATION FOR CRIMINAL HISTORY INFORMATION.** Employment applications for all finalists for City employment should be reviewed by the hiring authority. Careful attention should be paid to any criminal convictions listed by the applicants, and any significant gaps in employment history. If the job application does not contain an answer to the question of whether the applicant has any criminal convictions, the hiring authority must ask the applicant to answer the question.

If a criminal conviction is reported, it is appropriate to ask follow-up questions, such as the date of the conviction, and other circumstances surrounding the crime. The hiring authority should also ask each applicant if he or she has been convicted of criminal offenses in this state or in any other jurisdiction, before a job offer is extended.

- **EMPLOYMENT REFERENCE CHECK.** Reference checks must be conducted for current City employees who are transferring to a different department, or promoting into a new classification. The reference check should include a review of the departmental personnel file and a telephone call to the employee's current supervisor before a job offer is extended. If the candidate is a former employee, a review of the personnel file **must** be conducted before a job offer is extended.
- **BACKGROUND SCREENING BY CONTRACTED VENDOR** (Contact Personnel Department, Employment Services for agency contact information). The hiring authority must request a criminal record search through the vendor contracted to conduct background screening prior to filling a fulltime position. In compliance with the Fair Credit Reporting Act, a job candidate must first consent to the third-party search of their records. The record search will include the state of Arizona plus any other jurisdiction in which the candidate has lived in the last seven years. The search should also include a driver license check if the job candidate has lived outside Arizona in the last seven years and is being offered a driving position.

Job candidates must be provided a pre-adverse letter in the event a disqualifying conviction is reported to the City by the background screening vendor. The job candidate should be referred to the background screening vendor if they wish to dispute the record. After five days, if the City has decided to withdraw their job offer based on the disqualifying conviction, the job candidate must be provided with an 'adverse action' letter. The City will comply with all provisions of the Fair Credit Reporting Act in the administration of background screening.

- **VERIFY EDUCATION AND/OR CERTIFICATIONS.** Post-high school education and/or professional/technical certifications (such as Professional Engineer or state bar number) should be verified if the education or certification is required for the job or was a major factor in selecting the individual as a finalist. The Personnel Department, Employment Services Division, can provide guidance to departments on education and certification verification.
- **OTHER SCREENING.** Departments are encouraged to consult with the Personnel Department, Employment Services Division, should they wish to request additional screening in selected situations. Credit checks are appropriate to conduct for specific job classifications when it is essential for the position. For executive level positions, newspaper article checks can also be performed.
- **DRIVER'S LICENSE CHECK.** A driver's license check is a mandatory step in the applicant background screening process for all driving positions, as required by Personnel Department Letter #96 (PD 96). Contact the Employee Driver Training Academy at (602) 534-6609 to make these requests.
- **DEMOTIONS.** Contact the Personnel Supervisor in the Personnel Department, Records/Placement Section, for assistance.

C. EVALUATING RESULTS - Not all criminal convictions or other unfavorable background information obtained in the background screening process should be considered a bar to City employment. Departments must evaluate the job relatedness of the information received. To determine if an applicant's or employee's background would be prohibitive for a specific position, departments should analyze these factors:

- Duties of the specific position
- Individual's truthfulness about the event on the job application and/or interview affidavit
- Time, nature, and number of negative events / convictions
- Attempts and extent of rehabilitation efforts

A department may ask follow-up questions of the applicant to determine the seriousness of the crime or determine job relatedness. The department should contact the Personnel Department, Employment Services Division, for guidance in asking follow-up questions and evaluating job relatedness. If the department needs assistance in interpreting criminal conviction results, the Employment Law Section of the Law Department can assist.

If a candidate has a criminal record that includes a disqualifying conviction (either misdemeanor or felony), the job offer shall be rescinded. Sometimes the record check will indicate that a candidate was arrested but the disposition of the criminal case is unknown. The background screening vendor will make every effort to determine a disposition but may not always be successful. Follow-up is required only if the unknown disposition relates to a crime that would be disqualifying if a conviction had occurred. The candidate should be referred to the background check agency to dispute any records within the time limits defined by the Fair Credit Reporting Act. A reasonable amount of time should be allowed for the background screening vendor to conduct additional research regarding a disputed report.

If a candidate has not reported a criminal conviction on their job application that is subsequently discovered during the background screening, the hiring authority may rescind the job offer. If the candidate did not report the conviction on his or her employment application, the hiring authority should question the candidate to determine the reason for the omission. If the candidate indicates that the conviction record has been attributed to him in error, a copy of the conviction record should be provided to the candidate, and they should be referred to the background screening vendor. The candidate should be given a reasonable amount of time to dispute the report provided by the background screening vendor.


If a candidate inadvertently omits a single conviction of a misdemeanor that occurred several years prior to submitting the job application and the crime is unrelated to job performance; a job offer can still be made. The candidate should be advised to include the conviction on all future City of Phoenix job applications. Departments may contact the Personnel Department, Employment Services Division, for further guidance in this area.

Based on all information obtained, the hiring department can make an informed decision to hire or not to hire the individual. Employment decisions may not be made solely on the basis of a criminal conviction unless the conviction is job-related. Arrests that did not result in a conviction or have not been charged may not be considered when making a job offer. The Personnel Department, Employment Services Division, can be contacted if departments have questions or need additional clarification.

3. DOCUMENT RETENTION

The background screening vendor is responsible for retaining detailed records of all background screenings. The department is responsible for maintaining applicant release and authorization forms, separate from the employee's personnel file, for seven years.

FRANK FAIRBANKS, City Manager

By: 

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