



City of Phoenix

ADMINISTRATIVE REGULATION	A.R. NUMBER
	2.81 Revised
SUBJECT	FUNCTION
	Human Resources and Payroll
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BACKGROUND SCREENING	EFFECTIVE DATE
	April 18, 2016
	REVIEW DATE

Summary of Changes

This Administrative Regulation (AR) has been updated to:

- move the process of candidate disclosure of prior criminal convictions from the employment application stage to the finalist interview stage for most general City positions, which is consistent with many other federal, state and local employers and the goals of the National Employment Law Project; and,
- clarify language and processes to help in the communication, understanding and consistent application of this AR.

I. PURPOSE

This AR 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 which the City knew or should have known about. At the same time, the City is obligated to protect employees' and applicants' 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, coworkers or members of a hiring or interview panel biased by information regarding past behavior that is not related to job performance.

Full-time, part-time, and temporary City positions are subject to this AR for the purpose of employment suitability screening. Review of criminal conviction background information is limited to the seven-year period prior to the date of the initial job offer, or as otherwise required for the position. For example, the Arizona Peace Officer Standards and Training Board (AZPOST) and the Arizona Department of Public Safety impose different background check requirements for police officers and recruits.

Volunteers and paid and unpaid interns may be subject to background check screening as well, depending on the volunteer or intern assignment. Please contact your Human Resources Officer/Supervisor for guidance.

II. BACKGROUND SCREENING PROCESS

Unless noted otherwise, the following steps apply to new hires, promotions, and transfers. For demotions, contact the department's Human Resources (HR) Supervisor/Officer for assistance. Hiring authorities must include all applicable steps in their background screening procedures prior to a final job offer to ensure that City applicants and employees are properly screened. Depending on the position/department, some steps after the contingent job offer may be conducted simultaneously or in a slightly different order.

A. Position Assessment

Hiring authorities 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 hiring authorities 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 HR records).
- Routine responsibility for the receipt or payment of City funds or control of inventories.
- Executive or middle manager positions.
- Positions that fall under Federal Aviation Administration regulations (e.g., Aviation Department positions).
- Positions that fall under U.S. Department of Homeland Security regulations.
- Sworn public safety positions.
- Routine operation of automotive or construction equipment.

In addition, employees who provide services directly to children or vulnerable adults and sworn Fire Department employees must submit fingerprints for criminal background checks conducted by the Arizona Department of Public Safety, as mandated by Phoenix City Code Section 2-27.

B. Applicant Disclosure of Criminal History

Job applicants will be asked to submit a written disclosure of criminal convictions at the time of the final interview for a position using a form approved by the HR Department. In addition, candidates may be asked to provide recent performance evaluations and release forms authorizing the City to conduct background checks, verification of employment, and other employment suitability reviews. Candidates for Police Recruit/Police Officer will be asked to disclose conviction information at the time of the initial job application and during the applicant screening phase (i.e., prior to interviews). Conviction information for positions in the Police Department will be evaluated by a background investigator.

C. Review of Conviction Disclosure Forms

Conviction disclosure forms for all finalists for City employment shall be reviewed by the hiring authority (not the interview panel), in consultation with HR Department staff, after interviews are conducted. Questions about criminal history should not be asked during any interview. If a criminal conviction is reported, it is appropriate for the hiring authority to ask follow-up questions such as the circumstances surrounding the crime and any mitigating information. The hiring authority should discuss any relevant criminal history with the department's HR Supervisor/Officer before proceeding.

D. Employment Reference Check

An employment reference check is an excellent screening method and must be completed on all finalists. This includes reviewing recent performance evaluations, personnel files and leave records for internal candidates (excluding medical records). While some former employers and supervisors will only verify the job title and dates of employment, even this limited information is useful. The HR Department can provide assistance to hiring authorities on options for the most effective reference checking process. After reference checks are completed, the hiring authority shall review the resulting information with the department's HR Supervisor/Officer.

E. Contingent Job Offer

After approval by the HR Supervisor/Officer, the hiring authority shall extend the candidate a job offer contingent upon the successful completion of the background screening process. Because the job offer is contingent, the candidate should be advised not to resign from his/her current position until all applicable steps are completed and all contingencies are removed. When making a contingent offer of employment, hiring authorities should use an approved script or talking points as provided by the department's HR Supervisor/Officer. If the candidate accepts the contingent offer, the hiring authority should perform reference checks and notify the department's HR Supervisor/Officer. Upon notification, HR staff will contact the candidate to complete the necessary background checks listed below. If the candidate does not accept the contingent offer, the hiring authority should perform reference checks for the next candidate and then contact the department's HR Supervisor/Officer for the next step. Hiring authorities should not make a final offer until the department's HR Supervisor/Officer has cleared the hiree's background.

F. Background Screening by Approved Vendor

The HR Department must request a criminal record search through the City's background screening vendor once a contingent job offer has been extended and prior to filling the position. In compliance with the Fair Credit Reporting Act (FCRA), a job candidate must consent to a third-party search of their records (consent is made on the background screening vendor's system). The City will comply with all provisions of the FCRA in the administration of the background screening process. 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.

G. Checks Required by Federal, State or Local Laws

All finalists for positions subject to Phoenix City Code Section 2-27 are required to be fingerprinted by the Phoenix Police Department or the Arizona Department of Public Safety,

for fingerprint verification. Also, to comply with Arizona Department of Public Safety and the FBI's Criminal Justice Information Systems (CJIS) security policies, state of residency and national fingerprint-based record checks must be conducted for all personnel who have authorized access to FBI CJIS systems. Positions governed by Federal Aviation Administration regulations (e.g., Aviation Department positions) and Department of Transportation regulations (e.g., Commercial Driver License (CDL) positions) also are subject to specific background check requirements. Other checks may be required to stay in compliance with laws as they become adopted or are determined to apply to City positions.

H. Education and/or Certification Verification

Post-high school education and/or professional/technical certifications (such as Professional Engineer, Certified Public Accountant, 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.

I. Driver License Check/CDL

A driver license check is a mandatory step in the applicant background screening process for all driving positions or positions that receive a transportation allowance, as required by AR 2.96, Driver Qualification. Additionally, if an individual has been employed in a CDL position with a Department of Transportation regulated employer during the three years prior to starting employment with the City (or during the three years prior to promotion/transfer/demotion to a CDL position), a questionnaire must be sent to those prior employers as required by the Federal Motor Carrier Safety Administration policy.

J. Other Screenings

Hiring authorities are encouraged to consult with the HR Department should they wish to request additional screening in selected situations. A review of a candidate's credit may be appropriate for job classifications where procurement or financial responsibility is essential for the position. For executive level positions, media checks can also be performed.

K. Evaluating Results

The department's HR Supervisor/Officer shall review the completed screening results with the hiring authority. A hiring authority may ask follow-up questions of the applicant to determine the seriousness of a crime disclosed in the background screening process or to determine job-relatedness. The hiring authority should contact the HR Department for guidance in asking follow-up questions and evaluating job-relatedness.

Arrests that have not been charged or did not result in a conviction may not be considered when making a job offer. The City will follow U.S. Equal Employment Opportunity Commission (EEOC) guidance on the use of conviction records. Not all criminal convictions or other unfavorable background information obtained in the background screening process should be considered a bar to City employment. Hiring supervisors should work closely with the department's HR Supervisor/Officer to 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, hiring authorities shall analyze the following factors in conjunction with all the information obtained from the individual:

- The duties of the specific position.

- The individual's truthfulness in disclosing events on the candidate disclosure form.
- The time elapsed since the events.
- The nature, number and seriousness of the events and their relevance to the duties of the position.
- The attempts, extent and effects of rehabilitation, including conduct and accomplishments since the events.
- Any additional clarifying information provided by the candidate.

The decision to hire or not to hire the individual should be made in consultation with the HR and Law Departments.

L. Pre-Adverse Action Disclosure Letter

Job candidates must be provided a pre-adverse action disclosure letter in the event that 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 he/she wishes to dispute the record or provide any mitigating information. In this appeal process to the background screening vendor, the candidate should also communicate with the City's HR Director. After 10 calendar days, if the situation has not been resolved, the City has the option to withdraw a contingent job offer based on the disqualifying conviction. In this case, the job candidate must be provided with an adverse action letter by the background screening vendor.

M. Final Job Offer

After final approval by the department's HR Supervisor/Officer, the hiring authority may make a final job offer to the candidate. All materials related to the interview and screening process shall be turned over to the department's HR Supervisor/Officer.

III. 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 HR file, for seven years.

IV. QUESTIONS

Questions regarding this AR should be directed to the HR Department at (602) 495-5700.

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