




Office of the City Manager

INFORMATION CALENDAR

November 18, 2008

To: Honorable Mayor and Members of the City Council  
From:  Phil Kamlarz, City Manager  
Submitted by: David W. Hodgkins, Director, Human Resources Department  
Subject: Elimination Of Conviction History From City Job Application

INTRODUCTION

The purpose of this report is to inform the Council of the City's new hiring process as it pertains to consideration of job applicants' conviction history information.

CURRENT SITUATION AND ITS EFFECTS

Staff completed a review of the City's hiring process, job application form and methods for evaluating job applicants' conviction history. The review also included meeting with a representative from the organization, All of Us or None, an organization that supports the rights of individuals with felony convictions; as well as discussing practices with other public agencies that have removed the conviction box from their application. As a result of this assessment, revisions have been made to the process and timing of requesting conviction history information.

1. Job Application

The job application has been modified to eliminate the question: "Have you ever been convicted of a felony? If yes, provide details of the conviction." No conviction history information will be required at the time of submitting a job application.

2. Hiring Process

The City will review the qualifications of job applicants and determine if an applicant is otherwise qualified for a position prior to conducting an evaluation of his/her conviction history. To ensure compliance with state and local requirements, all persons entering or reinstating into City service will be required to successfully pass a conviction history evaluation prior to beginning employment. However, job applicants will not be required to provide information pertaining to their conviction history until they are selected for a position and have received a conditional offer of employment.

3. Evaluation

Job candidates receiving a conditional offer of employment will be required to provide conviction history information to the Human Resources Department. The Human Resources Department, in conjunction with the City Attorney's Office, will evaluate conviction history confidentially. The evaluation will include an assessment of the relationship between a conviction and the functions of the position; time elapsed since the conviction, evidence of rehabilitation, and any other mitigating circumstances.

4. Confidentiality

Conviction history information will be submitted to and maintained confidentially in the Human Resources Department. The exception to this is the Police Department, which will continue to conduct criminal history and background assessments for their prospective employees.

5. Additional Background Checks

The City will continue to conduct additional background checks such as obtaining conviction history information from the Department of Justice, and/or financial and credit reports for identified public safety, recreation, and cash-handling/asset management positions.

BACKGROUND

The City of Berkeley does not consider for employment a person who has been convicted of a felony drug or sexual assault or personal assault crime, or persons convicted of a felony or misdemeanor involving moral turpitude (including but not limited to volunteers) unless it is determined that mitigating circumstances exist, or that the conviction is not related to the employment. Additionally, California law (Education Code section 10911.5 and Public Resources Code section 5164) prohibits the City from employing recreation program personnel convicted of certain felonies from employment having direct contact with, or supervision over, minors. Persons recommended for employment in public safety occupations, positions working with minors, and cash-handling/asset management positions must pass an evaluation that includes obtaining summary conviction history information from the State of California Department of Justice (DOJ) prior to beginning employment.

The City's practice has been to require all applicants to disclose felony conviction history on the job application form, which could be evaluated by the Human Resources Department and hiring managers within each department prior to selecting a person for a job.

The City Council directed the City Manager review the City's hiring process as it pertains to the consideration of conviction history, including but not limited to the job application, the application review process and whether a nexus between a conviction and the vacant position must exist prior to a rejection of an applicant.

POSSIBLE FUTURE ACTION

Staff is committed to ensuring the fair and equal treatment of all applicants for City employment. Staff will evaluate the new process periodically.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None

CONTACT PERSON

David W. Hodgkins, Director of Human Resources Department, 981-6805

