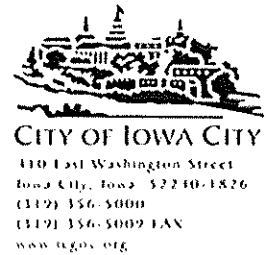


Administrative Regulations
City of Iowa City

Title: Policy on Criminal Background Checks in Hiring
A.R. Number: Effective Date: 8/1/14 Page: 1 of 5
Supersedes: 10/1/13 A.R.: N/A Dated: 8/1/14



I. Purpose

This policy is established in compliance with EEOC guidelines. It is intended to protect the public and the City of Iowa City, its employees and assets by ensuring that individuals assigned to certain positions have no concerning history of criminal behavior relevant to their employment. For example, convictions for theft, embezzlement, identity theft, or fraud are relevant to positions with fiduciary responsibilities and convictions for child molestation and other sex offenses are relevant to positions that involve direct unsupervised contact with children, other vulnerable populations or unsupervised access to citizens in their homes. Because the EEOC has indicated that criminal record exclusions from employment may have a disparate impact based on race or national origin, this policy is intended to assure that disqualification from City employment based on a conviction is job-related for the position in question and consistent with business necessity.

The City recognizes that its need to investigate applicants' and employees' criminal history must be balanced with the need to protect those persons' privacy. City policy and state and federal laws recognize the individual's right to privacy and prohibit City employees and others from seeking, using, or disclosing personal information except within the scope of their assigned duties.

II. Policy

Criminal background checks are required prior to hire and for all employees transferred, promoted, reclassified, or reassigned to certain sensitive positions. **The employing department is responsible for initiating the criminal background check.** If the background check reveals a conviction or deferred judgment relevant to the sensitive position, the individual may be disqualified from holding the sensitive position.

Who Should Read this Policy

- a. Department and Division Heads
- b. Managers, supervisors, and anyone else hiring employees for positions that require a criminal background check
- c. Individuals holding or applying for positions that require a criminal background check.

III. Procedures//Responsibilities

a. Responsibilities

Departments

- In consultation with Human Resources, determine whether a position should be designated as sensitive and document that information with a signed Sensitive

Position Designation form filed with Human Resources. This includes full-time, part-time, temporary, student work study, and volunteer positions. For all positions, a consultation should be conducted with the Human Resources Office, for positions that are designated as sensitive and subject to a criminal background check and this should be documented on the Job Description and Job Posting.

- Initiate criminal background checks prior to the hire, transfer, promotion, or reassignment of individuals into sensitive positions, including reclassification.
- Notify the individual under consideration for a sensitive position that an offer for any personnel action (employment, transfer, promotion, reclassification, or change in duties) is conditional on successful completion of the criminal background check.
- Maintain confidentiality of any information obtained through the criminal background check and/or driving record review, if applicable (applies when the position will include driving City vehicles).
- Consult with Human Resources before conducting any internet, social media, or public record review/screening of job candidates. Screening of this nature is not to be conducted at the division level but rather should be coordinated through and conducted by Human Resources in the same manner outlined for criminal background checks by this policy.

Human Resources:

- Conducts criminal background checks.
- Makes sure all official recruitment information, announcements, and position descriptions state whether a position requires a criminal background check.
- Notifies departments whether an individual is suited for employment based on the results of the criminal background check.
- If criminal background check results indicate potential disqualification (i.e. the conviction or deferred judgment is job related and disqualification is consistent with business necessity), Human Resources provides the subject of the criminal background check with a summary of their background check results and the opportunity to demonstrate that he/she was not correctly identified in the criminal record or that the record is otherwise inaccurate and/or that additional information shows that disqualification is not job related and consistent with business necessity. Human Resources consult with the hiring department and will make an individualized assessment and notify the applicant whether he/she has been disqualified.
- Maintains confidentiality of criminal background check results.
- Serves as the Office of Record for files concerning criminal background checks.
- Upon legitimate request from a department, and periodically, obtains a driving record review for employees who routinely drive City vehicles on City business.
- Maintains confidentiality of driving record review results, with supervisors given access only on a need-to-know basis.
- Consults with departments to determine whether positions require a criminal background check.
- Consults with departments about policy interpretation.
- Monitors hiring practices for policy compliance and advises City Manager's Office of issues or concerns.
- Reviews policy and updates as necessary to maintain compliance with future federal and/or state guidelines.

Procedures

Criteria for Determining Sensitive Positions

The department and Human Resources determine whether a position requires a criminal background check. Positions subject to criminal background checks typically involve one or more of the following responsibilities:

- Senior management of departments and divisions (department head, division head, superintendents);
- Care, safety, and security of people or property (includes sworn public safety officers, persons working with or around children or other vulnerable population groups; data managers);
- Direct access to, or control over, cash, checks, credit card account information (includes cash handling or credit card acceptance positions);
- Authority to commit financial resources of the City through the approval of purchases.
- Control over citywide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, Human Resource Information System, Payroll functional leads and staff with access to financial account information);
- Access to detailed personally identifiable information about prior or current staff or citizens which might enable identity theft (includes Human Resources, Revenue and Payroll staff);
- Possession of building master or sub-master key access to a wide range of facilities/offices (includes custodial services and Police Department staff);
- Regular operation of City vehicles as part of assigned job duties (includes transit drivers, inspectors, identified public works and parks positions).
- Access to controlled substances (includes animal control, police evidence)
- Access to City facilities outside of normal hours of operations (includes staff with proximity card or key access to buildings outside of normal business hours).

Performing a criminal background check does not relieve the department of its obligation to perform reference checks, conduct credit checks when appropriate, verify prior employment, obtain copies of licenses or certificates required for the specific position (with more extensive checks for police officers), and perform other checks.

Once it has been determined that a position requires a criminal background check, Human Resources includes that requirement on the job description. Human Resources also ensures that all official recruitment information, announcements, and descriptions state if the position requires a criminal background check.

Initiating a Criminal Background Check

- Once position finalists are identified, Human Resources will facilitate the background check process. Human Resources will receive and review the results of the criminal history check.

The Department must notify the individual under consideration that the offer for any personnel action (employment, transfer, promotion, reclassification, or

reassignment) is conditional upon successful completion of the background check.

Depending upon the position, the background check may use fingerprints to look for criminal convictions through the Iowa Department of Criminal Investigation ("DCI"). The DCI may utilize fingerprints for State of Iowa conviction results, and may electronically transmit fingerprints to the FBI for a national criminal conviction check.

b. Conducting a Criminal Background Check

Human Resources facilitates the criminal background check process, and Human Resources notifies the department if the results show no convictions so that the personnel action can be completed.

c. If the Criminal Background Check Reveals Convictions or Deferred Judgments

- If potentially disqualifying information is found, Human Resources will notify the applicant of the results and engage in an individualized assessment by providing the applicant with the opportunity to demonstrate that he/she was not correctly identified in the criminal record or that the record is otherwise inaccurate and/or that additional information shows that the criminal record is not job related and consistent with business necessity. Human Resources will then consult with the department and make a determination whether disqualification is consistent with business necessity based on the nature of the crime, the time elapsed, the nature of the job and any additional information the applicant has provided. The criminal background check must be initiated and completed (including, when appropriate, a review and determination by Human Resources of suitability for employment) before the individual can begin working in the sensitive position.
- Human Resources will make final determinations regarding the suitability of individuals for specific positions.
- Only criminal convictions and deferred judgments will be considered in determining an individual's suitability for employment. Detention and/or arrest without conviction, in and of themselves, do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. In determining an individual's suitability for employment or change in job duties where the individual under consideration has convictions or deferred judgments, Human Resources will consider the specific duties of the position and the specific circumstances of the crime. Considerations include:
 - a) relevance of the crime to the position sought;
 - b) the nature of the work to be performed;
 - c) time since the conviction;
 - d) age of the candidate at the time of the offense;
 - e) seriousness and specific circumstances of the offense;
 - f) the number of offenses;
 - g) any relevant evidence of rehabilitation or lack thereof;
 - h) evidence that the applicant performed the same type of work, post-conviction, with no known incidents of criminal conduct;

- i) the length and consistency of employment history before and after the offense; and
- j) any other relevant information, including information submitted by the candidate or requested by the hiring authority.

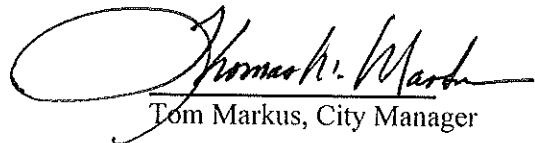
d. **Special Provisions Regarding Criminal Backgrounds For Police Department Candidates**

While the Iowa City Police Department may conduct criminal background checks on candidates for police department positions, candidates must still be provided notice that a background check will be required for the position. If the results of a criminal background check result in a potential disqualification, Human Resources must be advised of the basis for the disqualification including the business necessity of the disqualification before a final determination is made. In addition, candidates must be advised of the conviction or deferred judgment causing the potential disqualification and be afforded the opportunity to demonstrate that he/she was not correctly identified in the criminal record or that the record is otherwise inaccurate and/or that additional information shows that disqualification from employment based on the criminal conviction or deferred judgment is not job related and consistent with business necessity.

IV. **Responsibility**

Department Directors are ultimately responsible for ensuring compliance within their department. Any questions should be directed to the Human Resources Division.

Approved:



Tom Markus, City Manager