

EMPLOYMENT OF PERSONS WITH ARREST OR CONVICTION RECORDS

There are many factors to review when considering employing an individual with a criminal record. The existence of a criminal record is not, in and of itself, an indication that the person is not capable of performing the job. The County's policy in regards to the continued employment or hiring of individuals with criminal records considers the individual and the nature of the position.

A distinction must be made between an arrest and a conviction. An arrest record is not reliable evidence that a person has committed a crime since an arrest is not an indicator of guilt. Without proof of business necessity, the use of arrest records to disqualify job applicants constitutes unlawful discrimination. Unless otherwise required by law, a person's arrest record should not be considered when reviewing an applicant's background. By contrast, a conviction indicates that an individual has been found guilty of, or pled guilty to, some criminal offense. A conviction for a felony or misdemeanor may not necessarily constitute a barrier to employment, but conviction records can be used to deny employment if the crime for which the person was convicted is related to the job duties. No individual, except where prohibited by law, is automatically excluded from employment for any position in the County service solely because of the existence of a record of conviction.

The County employment application asks applicants to list any adult convictions, other than minor traffic violations. The Personnel Division reviews any convictions listed on the job application and determines if the conviction should prevent the applicant from proceeding in the selection process. PERSONNEL DOES NOT CONDUCT BACKGROUND INVESTIGATIONS. CHECK CRIMINAL CONVICTIONS. OR CHECK REFERENCES.

If you are concerned about preventing the employment of individuals convicted of crimes which could place your department at risk for negligent hiring, you should consult with Personnel regarding a criminal conviction check. Such investigations are currently done when filling positions involving contact with children to check applicants for past sex abuse convictions. Absent a criminal conviction check, Personnel staff must rely on an applicant's self-disclosure of criminal convictions on the County employment application form.

The following guidelines are considered by Personnel in evaluating an applicant's eligibility to proceed in the selection process. These guidelines should also be used by County managers who have knowledge that an applicant, or an employee, has a criminal record.

1. Differentiate between an arrest and conviction in consideration of the criminal record.

2. Evaluate the nature, gravity, and frequency of the offense.
3. Consider the duties of the position the employee holds or is applying for.
4. Consider the age of the individual at the time of conviction.
5. Consider the time that has passed since the conviction.
6. Evaluate the employee's entire work record or the applicant's work qualifications in total instead of concentrating on one aspect of the individual's history.

Please contact the Department of Employee Services if you have any questions regarding the employment of persons with a criminal record.

INTERNET LINKS

County Ordinance (<http://www.clackamas.us/code/documents/title2.pdf>)