

REPORTING CRIMINAL CHARGES AND CRIMINAL CONVICTIONS

INTRODUCTION

Although it is understood that being charged with a crime does not necessarily mean that criminal activity has been undertaken or that it relates to the charged individual's employment with the County, the County of Sullivan must ensure there is no perception of potential impropriety on the part of its employees, while also protecting the functions and property of the County. To this end, in the event of the levying of a criminal charge and/or conviction of an employee, the County must review whether a criminal charge and subsequent conviction would bear a direct relationship to the duties of its employees. Therefore, the County has deemed it necessary to require employees to disclose such information.

NON-DISCRIMINATION

Although the County requires reporting of criminal charges and subsequent conviction, the County will adhere to its legal responsibilities in relation to not discriminating against an individual on the basis of prior criminal convictions or pending criminal charges adjudicated in favor of the employee. This includes decisions that relate to hiring for other County positions.

POLICY

This policy is applicable to all active County employees, regardless of title. An active employee of the County is defined as an individual who is employed by the County at the time of the criminal charge or conviction. As this includes employees represented by certified bargaining agents, those agents have been notified of this policy and have indicated they do not contest its implementation.

Employees who are charged with a crime (as defined within the NY, Federal, or any other state Penal Law, which does not include charges of violations) must report the criminal charge within 5 working days of the commencement of proceedings against them (arraignment). In the event that an employee is convicted of a crime, they must notify the County within twenty-four (24) hours of the conviction. Such reports are to be made to the County's Commissioner of Human Resources.

An employee may be placed on administrative leave with pay pending the outcome of the charges or an internal investigation if they are charged with a crime that may bear a direct relationship to their duties at the County. This will be done if it is within the County's best interest to do so and underlying alleged conduct could impact the specific job-related functions of the employee. No action will be taken against an employee solely because they were arrested and charged with a crime. However, the underlying conduct, after review, may form the basis for disciplinary action.

After receipt of notification from the employee of criminal charges or conviction, the County will review and, if necessary, investigate the underlying facts. After conducting said investigation, the County will determine what actions, if any, to take.

CHARGES THAT AFFECT AN INDIVIDUAL’S LEGAL ABILITY TO DRIVE

Certain County positions require employees to possess a valid driver’s license. In the event that an individual is no longer authorized to drive a specific class of motor vehicle (regardless of class/type) and their duties require such authorized use of that specific class of vehicle, the employee must immediately (within twenty-four hours) report the loss of the legal right to operate said class of motor vehicle to the Commissioner of Human Resources. Employees who this provision applies to are not to drive any County vehicle if they are not authorized to lawfully operate that motor vehicle, regardless of the class of vehicle.

SEALED RECORDS

The County does not require the reporting of any criminal conviction or charges that are sealed either by statute or by court order. Any information the County possesses in relation to sealed criminal convictions will be disposed of in accordance with any legal obligation that may be imposed upon it. Furthermore, if an employee of the County believes that information pertaining to a sealed arrest is possessed by the County, said employee may request that information be discarded in accordance with any lawful obligation of the County.

CONFIDENTIALITY

Any information obtained pursuant to this policy shall be kept confidential. Records will not be disclosed to external entities unless a legitimate non-discriminatory business reason exists and a valid subpoena has been issued seeking such records, unless the County is under a separate legal obligation to provide those records to an external entity. Additionally, upon authorization of the employee, the County may disclose information received under this policy to authorized third-parties or representatives, so long as doing so would be lawful.

DISCIPLINARY ACTION

Any violations of this policy may result in disciplinary action up to, and including, termination from employment.

CONCLUSION

The concerns in relation to avoiding potential criminal conduct associated with County employment is paramount in ensuring the functions of the County are properly fulfilled. This policy balances the rights of the individual charged with a crime and the County’s obligations to ensure it completes its essential functions.