

Criminal Background Checks

Intent and purpose

A.

The Sullivan County Legislature (“Legislature”) has determined in order to promote the safety of the people of Sullivan County and the security of County property, it is important to investigate prospective applicants for employment with the County of Sullivan by reviewing such applicants' criminal history report.

B.

The office of the Sullivan County Commissioner of Human Resources performs the duties of Personnel Officer of the County of Sullivan pursuant to New York State Civil Service Law of §15 and the Administrative Code of the County of Sullivan. The Sullivan County Commissioner/Personnel Officer administers civil service law with respect to offices and employment in the classified service of the County pursuant to Civil Service Law §17. The Sullivan County Commissioner of Human Resources/Personnel Officer, pursuant to New York State Civil Service Law, § 50(4)(d) is directed to ascertain the fitness of applicants for positions in the competitive class of the civil service and may refuse to examine an applicant, or may refuse to certify an eligible applicant, who has been convicted of a crime. In addition, the Sullivan County Commissioner of Human Resources/Personnel Officer is responsible for the administration of personnel matters with respect to offices and employment in the unclassified service of the County.

C.

Accordingly, the purpose of this policy is to provide authority for fingerprinting and criminal history record checks of prospective employees of the County of Sullivan where such authority does not exist by statute or any other state or federal law. This policy shall be administered by and/or through the office of the Sullivan County Commissioner of Human Resources/Personnel Officer.

Employees subject to fingerprinting and background checks:

A.

Effective August 1, 2022 all prospective employees shall be subject to fingerprinting and background checks who are candidates for approved positions as set forth in the Sullivan County Civil Service Rules:

(1)

All positions which are, now or in the future, designated as classified service in the competitive class, noncompetitive class, labor class, and exempt class.

(2)

All positions which are, now or in the future, designated as unclassified service except those designated as elected officials.

B. Programs mandated to run background checks by state or federal regulatory requirements will continue with their respective background check process.

Administration

A.

The Sullivan County Commissioner of Human Resources/Personnel Officer shall be responsible for the administration of this policy and the procedures for the purpose of performing fingerprinting and criminal history review of prospective employees of the County of Sullivan who are subject to background checks and fingerprinting.

B.

The Sullivan County Commissioner of Human Resources/Personnel Officer shall utilize an approved vendor for the completion of the criminal history reports of prospective applicants for employment with the County of Sullivan. Subsequent to the effective date of the policy, all prospective applicants for employment within the classes of the civil service of the County of Sullivan as set forth in this policy shall be fingerprinted for the purpose of acquiring a criminal history report from an approved vendor.

C.

In order to determine the kind of criminal conviction which may preclude a person from employment with the County of Sullivan, the following criteria shall aid in determination:

(1)

Whether the person has been convicted of any offense denominated a felony or misdemeanor by and in violation of the laws of the United States or any of its territories or possessions or another state or of the State of New York or any political subdivision of this state.

(2)

Whether a person has been found by any court or administrative tribunal of the United State of any of its territories or possessions or another state or of the State of New York or any political subdivision of this state to have practiced any fraud, deceit or misrepresentation in the conduct of any occupation, business or profession.

D.

The criteria set forth in Subsection **C** of this section shall constitute sufficient legal basis for obtaining the criminal history of said person.

E.

Fingerprint cards for all prospective employees shall be prepared by the approved vendor. **Any applicable** fee shall be paid by the County and be chargeable against the respective department's budget. The fingerprint card and applicable fee will be

delivered to the Sullivan County Commissioner of Human Resources/Personnel Officer who shall forward the same to the approved vendor for processing.

F.

The criminal history record processed by the approved vendor concerning prospective employees shall be submitted to the Sullivan County Commissioner of Human Resources/Personnel Officer or his/her designee for review and consideration of the contents of those records and a decision regarding the candidate's fitness for the position.

All offers of employment at the County of Sullivan are contingent upon the results of a thorough background check. Background checks will be conducted on all final candidates.

Background checks will include:

- **Social Security Verification:** validates the applicant's Social Security number, date of birth and former addresses.
- **Prior Employment Verification:** confirms applicant's employment with the listed companies, including dates of employment, position held and additional information available pertaining to performance rating, reason for departure and eligibility for rehire. This verification will be conducted on the past two employers or the previous five years, whichever comes first.
- **Personal and Professional References:** calls will be placed to individuals listed as references by the applicant.
- **Educational Verification:** confirms the applicant's stated educational institution(s), including the years attended and the degree/diploma received.
- **Criminal History:** includes review of criminal convictions.

The following factors will be considered for applicants with a criminal history:

- The nature of the crime and its relationship to the position.
 - The time since the conviction.
 - The number of convictions.
 - Whether hiring, transferring or promoting the applicant would pose an unreasonable risk to the business, its employees or its customers and vendors.
- **Motor Vehicle Records:** provides a report on an applicant's driving history.

Procedure

Final candidates must complete a **background check authorization form** and return it to Human Resources. *[Note: this process will require a conditional employment offer prior to conducting a background check. Appointing authorities must require the completion of a background check authorization form at the time the offer of employment is extended.]*

Human Resources will order the background check upon receipt of the signed background check authorization form, and an employment screening service will conduct the checks. A designated Human Resources representative will review all results.

The designated representative will notify the appointing authority upon completion of the check. In instances where negative or incomplete information is obtained, the Commissioner of Human Resources/Personnel Officer will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired.

Background check information will be maintained in a file separate from employees' personnel files for a minimum of five years.

Ban The Box

The County of Sullivan is committed to recruiting a diverse and skilled workforce; and County Legislature is committed to protecting the rights of all its residents, and assisting in the rehabilitation of people with criminal records.

Removing the conviction history “check box” from applications is a proven method of increasing employment opportunities for individuals with criminal convictions, as even a minor conviction is often a significant limitation in seeking gainful employment.

Establishing A “Ban The Box” Policy for The County of Sullivan

WHEREAS, the County of Sullivan (“County”) is committed to recruiting a diverse and skilled workforce; and

WHEREAS, the Sullivan County Legislature (“Legislature”) is committed to protecting the rights of all its residents, and assisting in the rehabilitation of people with criminal records; and

WHEREAS, removing the conviction history “check box” from applications is a proven method of increasing employment opportunities for individuals with criminal convictions, as even a minor conviction can be a significant limitation in seeking gainful employment; and

WHEREAS, allowing potential candidates to obtain interviews regardless of their conviction status aids in reducing the stigma and bias associated with individuals with a criminal background and works towards ending structural discrimination; and

WHEREAS, the Equal Employment Opportunity Commission has recommended, as a best practice, removing questions from job applications that create discriminatory barriers; and

WHEREAS, effective August 1, 2022 the County no longer requires an applicant for employment with the County to answer questions regarding criminal history on their application for examination or employment; and

WHEREAS, the Legislature wishes to codify this practice into policy to permanently "Ban The Box" on its employment application form to promote fairness and opportunity for all persons applying for employment with the County;

NOW THEREFORE BE IT RESOLVED, any application for examination or employment with the County shall not contain questions or checkboxes regarding criminal history; and,

BE IT FURTHER RESOLVED, all applications for County employment shall be reviewed and judged on the qualifications presented, any applicable civil service standards and all pertinent laws and regulations; and,

BE IT FURTHER RESOLVED, the County shall inquire into and consider a candidate's prior criminal convictions only after a conditional offer of employment is made, except as when otherwise required by law; and,

BE IT FURTHER RESOLVED, the County’s Personnel Department shall adhere to any County policy in place requiring an applicant for employment to submit to a background check.