

Criminal Screenings and the Hiring Process



District Personnel Manual Instruction No. 4-26

Effective Date	Expiration Date	Related DPM Chapters
January 2, 2015	Retain until Superseded	4

i **NOTE:** This instruction supersedes E-DPM Instruction No. 4-18, Changes to the District of Columbia’s Hiring Practices and Official Job Application Necessary to Implement the “Returning Citizen Public Employment Inclusion Amendment Act of 2010,” dated June 3, 2011. This instruction provides information and guidance that District government agencies must follow when interacting with applicants with criminal backgrounds.

Overview

The District of Columbia government is strengthened and enriched by having a well-qualified and diverse work force. To that end, the District government has revised its hiring practices to remove barriers to applicants, who have been previously incarcerated and who have been rehabilitated, seeking gainful employment with the District government. Assisting returning citizens with finding employment reduces recidivism, strengthens our communities, and saves taxpayers’ money.

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Applications

Hiring agencies are required to use the Applicant Tracking System (ATS) to fill positions within their agencies. To the extent that hiring agencies use paper or electronic versions of the D.C. Government Employment Application (D.C. 2000), the hiring agencies must

ensure that the applicants are using the latest version of the D.C. 2000 (see attachment Form 1). The use of previous forms of the D.C. 2000 must be discontinued.

Screening Process

For positions that require criminal background checks pursuant to a Federal or District of Columbia law or regulation, such as the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (“CYSHA”), D.C. Official Code § 4-1501.05, *et seq.*, hiring agencies shall include the following notice on their vacancy announcements:

This position requires a criminal background check. Therefore, you may be required to provide information about your criminal history in order to be appointed for this position.

Agencies may only inquire into an applicant’s criminal background after extending a conditional offer of employment. To facilitate the criminal background check, the hiring agencies shall provide the applicant with four forms, made available by the Compliance Unit of DCHR, to complete: (1) Criminal Background Check Referral Form for Employees, New Hires and Volunteers in Safety Sensitive Positions; (2) Individual Notification of Criminal Background Check and Traffic Record Check Requirements Form; (3) Criminal Background Check Affirmation Form; and (4) Authorization Form. The applicant will submit those forms to the Metropolitan Police Department.

If the applicant has a criminal history, the Compliance Unit will conduct a suitability analysis. Agencies are not to inquire into an applicant’s criminal history directly. The Compliance Unit will forward the results of the suitability analysis to the hiring agency.

Agencies, conversely, are prohibited from inquiring about an applicant’s criminal background for positions that do not require a criminal background check by Federal or District of Columbia law or regulation.

Enforcement of the Fair Criminal Record Screening Amendment Act of 2014

The Office of Human Rights is tasked with enforcing the Fair Criminal Record Screening Amendment Act of 2014. Part of OHR’s enforcement of the law is to receive complaints from applicants who believe that a violation of the procedures provided in this instruction has occurred. Subsequently, the Commission on Human Rights investigates the claims of applicants, and if the Commission finds that a violation has occurred, the Commission is authorized to issue a monetary penalty against a District government agency. For more information, please review OHR’s Criminal Background Screenings and Employment Fact Sheet for Employers (see attachment Form 2).

Legal Authorities and Applicability

1. **Authorities:** Fair Criminal Record Screening Amendment Act of 2014, effective December 12, 2014, D.C. Law 20-152; Returning Citizen Public Employment Inclusion Amendment Act of 2010, effective March 31, 2011, D.C. Law 18-340; and
2. **Applicability:** The provisions of this instruction apply to those District government agencies which are subordinate to the Mayor's personnel authority. Other personnel authorities or independent agencies may adopt any or all of these procedures to provide guidance to employees under their respective jurisdictions.

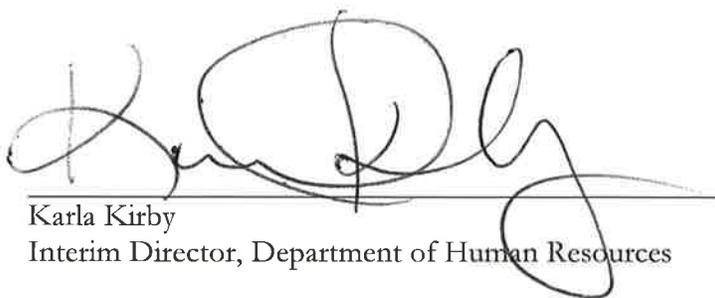
Definitions

As used in this instruction –

- “applicant” means any person considered or who requests to be considered for employment by a District government agency.
- “conditional offer” means an offer that is conditional solely on the results of the District government agency's subsequent inquiring into or gathering information about the applicant's criminal record; or some other employment-related contingency expressly communicated to the applicant at the time of the offer.
- “inquiry” means any direct or indirect conduct intended to gather criminal history information from or about an applicant using any method, including application forms, interviews, and criminal history checks.

Additional Information

For additional information concerning this instruction, contact the Department of Human Resources, Policy and Compliance Administration, by calling (202) 442-9700 or by sending an e-mail to dchr.policy@dc.gov.



Karla Kirby
Interim Director, Department of Human Resources

Form 1 – D.C. 2000 Employment Application

DISTRICT OF COLUMBIA GOVERNMENT		
		(Rev. 5/11)
EMPLOYMENT APPLICATION (DC2000)		
Please answer the questions and complete all required fields on this application. In addition, please respond to all of the ranking factors listed in the vacancy announcement. Finally, if you are claiming residency preference for a career service or management supervisory service position, please complete the residency preference form.		
1. POSITION VACANCY INFORMATION		
Position Title _____	Vacancy Announcement Number _____	
2. PERSONAL DATA		
_____	_____	_____
Last Name	First Name	Middle Name
_____		_____
Street Address		Apt #
_____	_____	_____
City	State	Zip Code
Ward		
Telephone (including area code): _____	_____	_____
	Home	Business
_____	_____	_____
Other names ever used	Social Security Number	Date of Birth
_____	_____	
Email		
3. D.C. EMPLOYMENT HISTORY AND AVAILABILITY		
a. Are you now or were you ever employed by the District of Columbia Government? <input type="checkbox"/>		
b. Mark below each type of current or previous D.C. government appointment. Check all applicable boxes.		
<input type="checkbox"/> Temporary	<input type="checkbox"/> Term	<input type="checkbox"/> Permanent
<input type="checkbox"/> Career	<input type="checkbox"/> Excepted Service	<input type="checkbox"/> Executive Service
<input type="checkbox"/> Management Supervisory Service	<input type="checkbox"/> Legal Service	<input type="checkbox"/> Other _____
c. List highest grade, classification series and step attained: Grade _____ Series _____ Step _____		
When can you start work? _____ Lowest pay or grade you will accept _____		
4. RESIDENCY		
a. Are you claiming a residency preference for the position indicated above?		<input type="checkbox"/> Yes <input type="checkbox"/> No
b. I understand the residency preference requirements (found at the end of this document).		<input type="checkbox"/> Yes <input type="checkbox"/> No
c. If the position you are applying for above is in the Career Service, Management Supervisory Service, or Legal Service, excluding the Senior Executive Attorney Services, are you claiming a residence preference? (If you claim residency preference, you must complete the Residency Preference for Employment form, DC-2000RP).		<input type="checkbox"/> Yes <input type="checkbox"/> No
d. If the position you are applying for above is in the Excepted Service, Executive Service, or Senior Executive Attorney Service, do you acknowledge and understand that, if selected, you must be a domiciliary of the District of Columbia at the time of the appointment or within 180 days of the appointment date, and maintain District domicile for the duration of the appointment?		<input type="checkbox"/> Yes <input type="checkbox"/> No

5. MILITARY SERVICE AND VETERANS PREFERENCE

Veterans preference is granted by law to disabled veterans, to veterans who served on active duty in certain time periods or military operations, and, under certain conditions, to the spouses, widows, widowers, or mothers of deceased or disabled veterans.

Have you ever served on active duty in the United States Armed Forces? Yes No
(Answer "NO" if your only active duty was for training, including basic training, in the Reserves and National Guard.)

Did you or will you retire at or above the rank of Major or Lieutenant Commander? Yes No
(If "YES," you are not eligible for veterans preference unless your retirement is based upon a service-connected disability.)

From _____ To _____ Character of Separation _____
Dates of Active Duty Service (Month/Day/Year)

_____ Separation Date _____
Campaign or Expeditionary Medals Received

Preference claimed: 5-point preference 10-point preference None
(Please check one. You must show proof when hired.)

6. EDUCATION

a. High School

Indicate highest grade completed: _____
Name and Address of School _____ Zip Code _____
Did you graduate? Yes No If no, have you received a GED high school equivalency? Yes No
Attended From _____ To _____
(month/year) (month/year)

b. Colleges and Universities

School 1

Indicate highest degree(s) obtained (e.g., A.A., B.S): _____
Name and Address of College or University _____ Zip Code _____
Major _____ Minor _____
Major Semester Credit Hours _____ OR Major Quarter Credit Hours _____
Attended From _____ To _____
(month/year) (month/year)

School 2

Indicate highest degree(s) obtained (e.g., A.A., B.S): _____
Name and Address of College or University _____ Zip Code _____
Major _____ Minor _____
Major Semester Credit Hours _____ OR Major Quarter Credit Hours _____
Attended From _____ To _____
(month/year) (month/year)

7. TRAINING

List relevant training, licenses or skills (e.g., sign language). Include schools attended, addresses, certificates or degrees awarded, dates attended, number of credit hours, and major/minor field or subjects studied.

8. LANGUAGE CAPABILITIES

List the languages you speak, read and write

Language	Speak	Read	Write
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. WORK EXPERIENCE

List paid or unpaid work experience relevant to the position for which you are applying.

No Work Experience

PRESENT OR MOST RELEVANT POSITION:

Employer's Name	Dates of Employment (Month/Year)	Annual Salary	Average Hours Per Week
Address	From _____ To _____	Starting \$ _____ Final \$ _____	
Telephone	Name and Title of Supervisor		
Reason for leaving		No. of Employees Supervised	
If District or Federal Employment, List Series, Grade or Rank and Date of Last Promotion			
Job Title and Duties, Responsibilities and Accomplishments			

POSITION:			
Employer's Name	Dates of Employment (Month/Year)	Annual Salary	Average Hours Per Week
Address	From	To	Starting \$
			Final \$
Telephone	Name and Title of Supervisor		
Reason for leaving		No. of Employees Supervised	
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If District or Federal Employment, List Series, Grade or Rank and Date of Last Promotion			
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Employer's Name	Dates of Employment (Month/Year)	Annual Salary	Average Hours Per Week
Address	From	To	Starting \$
			Final \$
Telephone	Name and Title of Supervisor		
Reason for leaving		No. of Employees Supervised	
If District or Federal Employment, List Series, Grade or Rank and Date of Last Promotion			
Job Title and Duties, Responsibilities and Accomplishments			

10. BACKGROUND INFORMATION - You must answer each question in this section before we can process your application

- a. Do any of your relatives work for the District of Columbia government? Include: father, mother, husband, wife, son, daughter, brother, sister, uncle, aunt, first cousin, niece, nephew, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepdaughter, stepbrother, half-brother, and half-sister. Yes No

If "YES," in the space below, write for each of these relatives their: (1) name; (2) relationship to you; and (3) agency of the District of Columbia Government in which the person works.

Name*	Relationship	District Agency

(*Note: If more than five (5) relatives continue on a separate sheet of paper.)

- b. Do you receive or have you ever applied for retirement pay, pension, or other pay based on District of Columbia government, federal civilian or federal military service? Yes No
- c. Are you a citizen of the United States? Yes No
- d. Are you legally authorized to work in the United States? Yes No

To work for the District of Columbia government in certain public safety positions, you must be a citizen of the United States. If selected, you will be required to submit evidence of identity and employment eligibility.

11. SIGNATURE, CERTIFICATION, AND RELEASE OF INFORMATION

YOU MUST SIGN THIS APPLICATION. Read the following carefully before you sign. I understand that a false statement on any part of my application may be grounds for not hiring me, or for firing me after I begin work (D.C. Official Code § 1-616.51 *et seq.*) (2001). I understand that the making of a false statement on this form or materials submitted with this form is punishable by criminal penalties pursuant to D.C. Official Code § 22-2405 *et seq.* (2001). I understand that any information I give may be investigated as allowed by law or Mayoral order. I consent to the release of information regarding my suitability for District of Columbia Government employment by employers, schools, law enforcement agencies, and other individuals and organizations, to investigators, human resources specialists, and other authorized employees of the District of Columbia government. I certify that, to the best of my knowledge and belief, all of my statements are true, correct, and complete.

Sign

Date

RANKING FACTORS

Name _____ Vacancy Announcement Number _____

The ranking factors found in the vacancy announcement will be used in the evaluation process for all positions other than wage grade. All applicants MUST respond to the ranking factors. Please describe specific incidents of sustained achievements from your experience that show evidence of the level at which you meet the ranking factors that have been determined to be of importance for the position for which you are applying. You may refer to any experience, education, training, awards, outside activities, etc. that include the degree to which you possess the job related knowledge, skills, and abilities described in the ranking factors. The information given in response to the ranking factors should be complete and accurate to the best of your knowledge. FAILURE TO RESPOND TO ALL RANKING FACTORS MAY ELIMINATE YOU FROM CONSIDERATION.

Use the spaces below to respond to the ranking factors on the job vacancy announcement.

Ranking Factor 1

Ranking Factor 2

Ranking Factor 3

Ranking Factor 4

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Ranking Factor 5

A large, empty rectangular box with a black border, intended for notes or data related to Ranking Factor 5.

Ranking Factor 6

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Form 2 – OHR Criminal Background Screenings and Employment Fact Sheet for Employers

Criminal Background Screenings and Employment - Fact Sheet for Employers -



(updated December 17, 2014)

Role of the DC Office of Human Rights

The District of Columbia Office of Human Rights (OHR) is charged with enforcing the Fair Criminal Record Screening Amendment Act of 2014, which aims to prevent unlawful screening of a job applicant's criminal background. OHR will investigate filed complaints that allege violations of the law, and can impose penalties when violations are found.

Employers Subject to the Law

The law applies only to employers in the District with 11 or more employees. Exceptions apply for some employers, including:

- those where federal or District law or regulations require considering an applicant's criminal history;
- when a position is designated by government program or obligation to encourage employment of those with criminal histories; and
- those who provide programs or services to minors or vulnerable adults.

What the Law Requires of Employers

Application Form and Interview Process

On an initial application form or during the interview process, the law *prohibits* employers from asking about:

- Arrests;
- Criminal accusations made against the applicant that are not pending or did not result in a conviction; or
- Criminal convictions on the initial employment application form.

Conditional Job Offer

An employer may ask about criminal convictions *only after* extending a conditional offer of employment (at no point can an employer ask about arrests or criminal accusations). An employer who properly asks about a criminal conviction can only withdraw the offer or take adverse action against the applicant for a legitimate business reason that is reasonable when considering all of these six factors:

1. Specific duties and responsibilities necessarily related to the employment;
2. Fitness or ability of the person to perform one or more job duties or responsibilities given the offense;
3. Time elapsed since the occurrence of the offense;
4. Age of the applicant when the offense occurred;
5. Frequency and seriousness of the offense; and
6. Information provided by applicant or on his or behalf that indicates rehabilitation or good conduct since the offense occurred.

- section continued on next page -

Learn more at ohr.dc.gov/page/returningcitizens 441 4th Street NW, Suite 570N, Washington, DC 20010 (202) 727-4559
[facebook.com/dcohr](https://www.facebook.com/dcohr) twitter.com/dchumanrights [instagram.com/dchumanrights](https://www.instagram.com/dchumanrights)

Required Documentation

After a conditional job offer is made, an employer who takes adverse action against an applicant because of a criminal conviction must provide the following if the applicant believes and communicates the action was taken because of their criminal background:

- A notice advising the affected applicant about the right to file a complaint at OHR.*

Within 30 days of the adverse action, an applicant can request the following, which the employer must provide within 30 days of receipt of the request:

- A copy of all records procured by the employer in consideration of the affected applicant, including criminal records.

Complaint Process

An administrative complaint can be filed with OHR *within 365 days*** of the alleged violation. There is no private cause of action in other courts under this law. Two types of complaints can be filed with OHR:

Application Form Complaint (Type A Complaint)	Interview Process Complaint (Type B Complaint)
<p><i>Type A complaints can be filed when arrests, criminal accusations or criminal convictions are asked about on an application form.</i></p> <ul style="list-style-type: none">• Type A complaints docketed by OHR are scheduled for a mandatory mediation with the complainant and employer.• If mediation fails, the complaint will be investigated and an initial determination made within 90 days of the case being docketed, in most instances.• If probable cause of a violation is found, parties will have an additional opportunity to settle before a final determination is made by the Commission on Human Rights.	<p><i>Type B complaints can be filed when arrests or criminal accusations are asked about at any point, or criminal convictions are asked before a conditional job offer is made.</i></p> <ul style="list-style-type: none">• Type B complaints docketed by OHR are scheduled for a mandatory mediation with the complainant and employer.• If mediation fails, the complaint will be investigated and an initial determination made within 120 days of the case being docketed, in most instances.• If probable cause of a violation is found, parties will have an additional opportunity to settle before a final determination is made by the Commission on Human Rights.

Penalties for Violations

If the Commission on Human Rights determines a violation occurred, penalties may be imposed with half of the amount going to the complainant and half to the District, up to the following amounts:

- \$1000 for employers with 11 to 30 employees;
- \$2500 for employers with 31 to 99 employees; and
- \$5000 for employers with 100 or more employees.

* Notice templates for your use can found on the OHR website at ohr.dc.gov/page/returningcitizens.

** The alleged violation must have occurred on or after the law's effective date of December 17, 2014.

- Disclaimer: This fact sheet is intended to assist employers but is not an exhaustive review of the law. -