

CONSIDERATION OF CRIMINAL CONVICTIONS IN HIRING

August 4, 2011

EXECUTIVE ORDER No. 151

WHEREAS, the City of New York is committed to recruiting a broad, diverse, and skilled workforce; and

WHEREAS, a criminal conviction is often a limitation in seeking gainful employment, and access to employment is a proven means of reducing recidivism that helps reintegrate individuals into the community; and

WHEREAS, obstacles to employment for people with prior criminal convictions and other barriers to reentry impair the economic and social vitality of this group, and is contrary to public policy; and

WHEREAS, the City wishes to safely remove barriers that impede otherwise qualified individuals from obtaining employment with Agencies of the City of New York, while still affirming the right of all City agencies to deny candidates employment because their prior criminal convictions have a direct relationship to the job they are to perform or their employment would compromise public safety and property; and

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered that:

Section 1. With respect to any employment governed by Article 23-A of the Correction Law, except as provided by this Order, Agencies shall not ask questions regarding an applicant's prior criminal convictions on any preliminary employment application documents, excluding the Comprehensive Personnel Document ("CPD"), or ask questions about an applicant's prior criminal convictions before or during the first interview with the applicant.

§ 2. Agency inquiry into and consideration of a candidate's prior criminal convictions shall take place only after the first interview. Following the first interview, Agencies may ask applicants to disclose their prior criminal convictions, as specified in Section 3 of this Order, on a form provided by the Department of Citywide Administrative Services' Human Capital Division.

§ 3. Agencies shall limit their review and consideration of an applicant's criminal convictions to (a) an individual's felony convictions in the state of New York or in any other jurisdiction; (b) an individual's unsealed misdemeanor convictions in the state of New York or in any other jurisdiction; and (c) any pending charges against the applicant. Consistent with state law, past arrests not leading to a criminal conviction shall not be considered. In addition, Agencies may make application to DCAS to waive any provision of this Order and be permitted to ask relevant questions pertaining to the qualifications to hold a specific civil service title, upon demonstrating the need for such waiver.

§ 4. Notwithstanding Section 3, Agencies hiring for certain positions requiring licensure, including positions such as interns and apprentices for such licensed positions (e.g. prospective attorneys), may ask applicants the same questions asked by the licensing body, in accordance with New York state law.

§ 5. Notwithstanding Sections 1 through 3, Agencies hiring for positions where certain convictions or violations are a bar to employment in that position under the law, shall not be constrained from asking questions about those convictions or violations.

§ 6. Agencies shall comply with Article 23-A of the New York State Correction Law when considering an applicant's prior criminal convictions in determining their suitability for employment. In accordance with Article 23-A, nothing in this Order shall be construed to limit an Agency's authority to withdraw conditional offers of employment for any lawful reason, including the determination that the candidate has a conviction that bears a direct relationship to the duties and responsibilities of the position sought, or their hiring would pose an unreasonable risk to property or to the safety of individuals or the general public.

§ 7. Where practicable, all City Agencies shall provide for the review of a decision not to hire based on prior criminal convictions by a supervisor.

§ 8. Notwithstanding Sections 1 through 7 of this Order, the following law enforcement agencies: the New York City Police Department, the New York City Fire Department, the New York City Department of Correction, the New York City Department of Investigation, the New York City Department of Probation, and the Division of Youth and Family Services of the Administration for Children's Services, may ask about any criminal records of applicants on pre-employment job applications and in initial interviews. Any other Agency hiring for "police officer" and "peace officer" positions, as defined by NYS CPL § 1.20 and NYS CPL § 2.10, may ask about any criminal records of applicants for such positions on pre-employment job applications and in initial interviews.

§ 9. All applicants with disqualifying criminal convictions for specific jobs at specific Agencies shall be promptly removed from civil service lists for those specific jobs at those specific Agencies, in accordance with New York Civil Service Laws.

§ 10. The Department of Citywide Administrative Services' Human Capital Division shall provide training for Agency Personnel Officers on the appropriate manner in which to ask about the prior criminal convictions of qualified candidates, and protocols for consideration of

prior criminal convictions in the hiring decision. Such Personnel Officers shall train their Agency Human Resources staff. All training shall include:

- a. Instruction on Article 23-A of the New York State Correction Law and its factors for consideration.
- b. Procedures for consideration of candidate's prior criminal convictions to assess whether the convictions bear a direct relationship to the duties and functions of the employment sought.

§ 11. The Department of Citywide Administrative Services' Human Capital Division shall undertake a two-year pilot program to end no later than September 30, 2013, wherein periodic operational reviews of Agency practices shall be conducted to ensure compliance with this Order. The Department of Citywide Administrative Services' Human Capital Division shall also ensure all "E-Hire" systems are compliant with this Order and can collect relevant data for its review.

§ 12. The application of the provisions of Sections 1 through 11 of this Order to the New York City Housing Authority, the Department of Education, and the New York City Health and Hospitals Corporation, shall be contingent upon the written concurrence of those entities.

§ 13. All City entities that issue licenses shall undertake a review of their licensing policies to determine whether their practices are consistent with the goals of this Order and Article 23-A of the New York State Correction Law, and report back to the Mayor's Office within forty-five days of the date of this Order.

§ 14. The plans required by Sections 10 and 11 this Order, shall be completed no later than 180 days from the date of this Order.

§ 15. This Order shall not be construed to create any substantive rights.

§ 16. This Order shall take effect in sixty days.

Michael R. Bloomberg
Mayor