



OFFICE OF PERSONNEL & LABOR RELATIONS

Ben Walsh, Mayor

CITY OF SYRACUSE

BACKGROUND CHECK POLICY

April 2015

A. Purpose & Policy

The purpose of this criminal background check (“background checks”) policy is to establish procedures in accordance with applicable law to ensure that persons who were previously convicted of one or more criminal offenses have a fair opportunity to obtain employment from the City of Syracuse (“City”); while balancing the right of the City to deny employment to persons whose employment would fail to meet either the direct relationship or unreasonable risks tests outlined in New York State Law.

This policy applies to background checks conducted by the City.

B. Procedure Related to Background Checks For Employment Purposes

a. Actions Required in Regards to Procuring Background Check

The following procedure will be utilized by the City and its departments for purposes of procuring or causing to be procured a background check for employment or volunteer purposes (collectively, “employment”):

1. Prior to procuring or causing to be procured a background check on a person for employment purposes, the City must first make a determination that such person is qualified for the employment position sought; and secondly extend a conditional offer of employment to such person. See Syracuse Fair Employment and Licensure Ordinance § 53-4(A), Gen. Ord. No. 2014-45 (Dec. 22, 2014).

- a) The City will also do the following:

- i. Include notification in employment postings or advertisements that a criminal background check may be conducted in regards to the employment sought.
- ii. Require an applicant to complete and submit an employment application form. Such application form will include notification that a background check may be conducted for employment purposes.
- iii. Provide a clear and conspicuous written disclosure, consisting solely of the disclosure, provided in substantially the form contained in **Appendix A**, stating:
 1. That a background check may be obtained for employment purposes. 15 USCA §1681b (b) (2) (A) (West 2013).
 2. That such person has a right to a written summary of his or her Fair Credit Reporting Act (“FCRA”) rights. See USCA §1681g(c).
 3. That such person has the right to request and receive disclosure of the nature and scope of information in his or her background check file at the time of the request, not later than 5 business days after such person’s request. See 15 USCA §§1681a (o) (5) (C) (i) and (ii); see also 15 USCA §1681d (b).
 4. That such person has a right to the name, address and telephone number regarding the consumer reporting agency that conducts the background check.

5. That such person, upon request, will be informed whether or not a background check was requested, and if such report was requested, to be informed of the name, address and telephone number of the consumer reporting agency that furnished the report or to whom the report was made. N.Y. Gen. Bus. Law §380-b (b) (McKinney 2013). Upon the furnishing to such person of the name and address of the consumer reporting agency, such person must also be informed he may inspect and receive a copy of such report by the consumer reporting agency. See N.Y. Gen. Bus. Law §380-c. Additionally, the City, as a requesting entity, in regards to requesting a report with respect to an offer of employment, must also provide to such person a copy of Article 23-A of the New York State Correction law governing the employment of persons previously convicted of one or more criminal offenses. See N.Y. Gen. Bus. Law §§380-c and 380-g (d).
- iv. Obtain an executed background check authorization form, authorizing the City to conduct a background check. See Appendix A; 15 USCA §1681b (b) (2) (A); see also N.Y. Gen. Bus. Law §380-c. Persons under 18 years of age will be required to obtain parental approval and consent. Refusal to sign a background check authorization form may result in a denial of/or continuation of, the employment, volunteering, staffing position or other opportunity sought.

b. **Criminal Conviction Information that May be Reviewed in Background Check**

In reviewing a background check report, the City may only consider an entry of a plea of guilty or a verdict of guilty after trial, for a misdemeanor or felony offense in the State of New York or any other jurisdiction. See Syracuse Ordinance §53-3(E), Gen. Ord. No. 2014-45.

In reviewing a background check report, the City may not consider any criminal conviction information contained in the background check in violation of New York State Executive Law section 296 (15) and (16) and sections 53-3 (E) and 53-4 (B) of the Syracuse Fair Employment and Licensure Ordinance. **See Appendix B**; see also Syracuse Ordinance §§53-3 (E) and 53-4 (B), Gen. Ord. No. 2014-45.

As such, the City cannot consider:

- a) An arrest or criminal accusation of an individual not then pending against that individual which was followed by:
 - i. a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law; or
 - ii. by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law; or
 - iii. by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law; or
 - iv. by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, in connection with the licensing, employment or providing of credit or insurance to such individual.

- b) Any arrest or adjudication of an individual which was processed as a Juvenile Delinquency proceeding in Family Court; or
- c) Any arrest or conviction of an individual in a jurisdiction other than New York which was sealed, annulled, pardoned, expunged, or deemed a legal nullity, or confidential as a result of legal process.

c. **Actions Required for a Background Check that Contains Criminal Conviction Information**

When a background check contains criminal conviction information permitted under applicable law, the City must provide to the person to whom the background check relates, a printed copy of Article 23-A of the Correction Law governing the employment of persons previously convicted of one or more criminal offenses. **See Appendix C**; N.Y. Gen. Bus. Law §380-g (d).

d. **Hiring Person Whose Background Check Contains Criminal Conviction Information**

Pursuant to New York State Executive Law section 296 (15), for purposes of establishing, in the event of litigation, a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person hired by the City, the hiring City department, in consultation with the City Department of Personnel and Labor Relations (“Personnel Department”), after learning about an applicant or employee’s past criminal conviction history, must evaluate and document the factors set forth in section 753 of the New York State Correction Law, and make a reasonable, good faith determination that such factors militate in favor of hiring or retention of that applicant or employee. **See Appendix C**.

e. **Adverse Actions Based on Criminal Conviction Information in Background Check**

Before taking any adverse action based in whole or in part on criminal conviction information contained in a background check, such as a rescission of a conditional employment offer, a City Department must do the following:

1. Provide a copy of the background check report to the person to whom the background check report relates. 15 USCA §1681b (b) (3) (A) (ii).
2. Provide a written description of the rights of the person to whom the report relates, pursuant to 15 USCA 1681b (b) (3) (A) (ii) and 15 USCA 1681g (c) (3). **See Appendix D.**
3. The City Department, in consultation with the City Personnel Department, **must evaluate and document** its determination pursuant to New York State Correction Law Article 23-A. **See Appendix C.** Specifically, the City shall apply the direct relationship test or the unreasonable risk test found in Section 752 of the New York State Correction Law and shall consider the factors to be considered concerning a previous criminal conviction enumerated in Section 753 of the New York State Correction Law. **See Appendix C;** **see also** Syracuse Ordinance §53-4 (C), Gen. Ord. No. 2014-45.
4. The City Department must not consider any information in the background check as part of any adverse action to be taken that would constitute an unlawful discriminatory practice pursuant to New York State Executive Law section 296 (15) and (16). **See Appendix B;** **see also** Syracuse Ordinance §§53-3 (E) and 53-4 (B), Gen. Ord. No. 2014-45.

5. If a City Department after applying the direct relationship test or the unreasonable risk test and after consideration of the applicable factors is considering an adverse action, such as a rescission of a conditional employment offer, based upon information contained in a background check, such department must notify such person of the potential adverse employment action and provide such person with a copy of the background check, highlighting or identifying the conviction(s) that warrant adverse action, such as a rescission of such conditional employment offer.
 - a. Such person may, within five (5) business days or such greater period as required by applicable law, after delivery of the notice and background check report by the City, provide the City information and/or documentation regarding the accuracy and relevance of the background check report, including information and/or documentation pertaining to the factors in New York State Correction Law section 753. Syracuse Ordinance §53-4 (C), Gen. Ord. No. 2014-45.
 - i. The City must review all the information and/or documentation that are provided by such person within the above five (5) business day timeframe prior to taking any final action. Syracuse Ordinance §53-4 (C), Gen. Ord. No. 2014-45.

The City must also do the following after taking an adverse action based in whole or part on criminal conviction information contained in a background check:

1. Provide written or electronic notice of the adverse action to such person. 15 USCA §1681m (a).
2. Provide written or electronic notice to the person to whom the report relates that an adverse action has been taken based in whole or in part on a background check

received from a consumer reporting agency. 15 USCA §1681m (a); see also 15 USCA §1681a (x)(D) (2).

3. Provide in writing or electronically the following:
 - a) The name, address and telephone number of the consumer reporting agency (including toll-free telephone number); and
 - b) A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken. 15 USCA §1681m (a) (3).
4. Provide in writing or electronically, notice of the right of such person to:
 - a. Obtain, pursuant to 15 USCA §1681j, upon providing proper identification, a free copy of his or her background check, i.e. consumer report, from the consumer reporting agency, if such person makes the request to the consumer reporting agency within 60 days after receipt of such notification; and
 - b. Dispute pursuant to 15 USCA §1681i, upon providing proper identification, with a consumer reporting agency, the accuracy or completeness of any information in a background check, i.e., consumer report, furnished by a consumer reporting agency. 15 USCA §1681m (a) (4).
5. Notwithstanding any provision to the contrary, upon the request of any person previously convicted of one or more criminal offenses who has been denied employment, the City shall provide, **within 30 days**, a written statement setting forth the reasons for such denial. See N.Y. Corrections Law §754.

“Adverse Action” for purposes of this policy means a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.”

See 15 USCA §1681a (k) (1) (B)(ii).

f. **Additional Disclosure and Request Requirements**

1. Notwithstanding any provision to the contrary, upon receiving a request from a person to whom a background check relates, the City must make a complete and accurate written disclosure of the **nature and substance** of all information in a person’s **background check report file** at the time of the request, **not later than 5 business days** after receiving such request, except that sources of any information that is acquired solely for use in making the background check communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought. See 15 USCA §1681a (o) (5) (C) (i).

g. **Background Check Costs**

In regards to a background check conducted on a new employee for the City, such person will be responsible for the costs of the background check, unless otherwise agreed to in the sole discretion of the City. Such background check costs shall be imposed and collected prior to such person’s first day of employment with the City.

In regards to a background check conducted on an existing City employee, the City will be responsible for the costs of the background check, excluding police, fire and peace officer positions. For purposes of this paragraph, a person receiving a conditional offer of employment shall not be considered an existing City employee.

h. **Records Retention and Confidentiality**

1. City Departments, in obtaining a background check shall separately retain all records gathered as a result of a background check report for such period as required by applicable law. These records may include, but not be limited to:
 - a. Disclosures;
 - b. Background check authorization form;
 - c. Background check report;
 - d. Written analysis and decision regarding New York State Correction Law Article 23-a;
 - e. Requests; and
 - f. Correspondence related to the criminal background check.

Only authorized personnel of the City will have access to these secured records.

2. City Departments will maintain background check records as confidential to the extent required by applicable law.

i. **Miscellaneous Provisions**

1. This policy will not be construed or interpreted to alter or in any way diminish the integrity of any collective bargaining agreements negotiated between the City and any certified or authorized collective bargaining agent, nor to diminish any rights pursuant to such agreements.
2. This policy is not intended to supersede any applicable state or federal laws relating to background checks.

j. **Exceptions**

1. In regards to employment positions where the City is barred from hiring an individual with certain convictions or violations, the City shall not be constrained from asking questions about convictions or violations prior to an applicant having been determined qualified for such employment and having been extended a conditional employment offer.
2. This policy shall not apply to the following:
 - i. The City Police Department or any “police officer” and “peace officer” positions, as defined by New York State Criminal Procedure Law Sections 1.20 and 2.10, as amended from time to time; and
 - ii. Inquiries or adverse actions specifically authorized or imposed pursuant to applicable law. See Syracuse Ordinance §53-4 (A) and 53-8, Gen. Ord. No. 2014-45; see also 15 USCA §1681a (y).

Appendices

Appendix A: Background Check Disclosure Statement and Authorization Form

Appendix B: New York State Executive Law Section 296 (15) and (16).

Appendix C: New York State Correction Law Article 23-A.

Appendix D: Federal Fair Credit Reporting Act Summary of Rights.

*The Syracuse Fair Employment and Licensure Ordinance is available in the Personnel Office and on the City of Syracuse website.

APPENDIX A

DISCLOSURE

AS PART OF OUR HIRING PROCESS, WE MAY CONDUCT A BACKGROUND CHECK AND INVESTIGATION, WHICH MAY REQUIRE US TO REQUEST AND OBTAIN A CONSUMER REPORT OR THE PREPARATION OF AN INVESTIGATIVE CONSUMER REPORT. SUCH REPORTS MAY CONSIST OF US CONTACTING ALL LISTED PRIOR EMPLOYERS OR VOLUNTEERISM OPPORTUNITIES TO VERIFY YOUR EMPLOYMENT OR VOLUNTEERISM HISTORY. SUCH REPORTS MAY ALSO INCLUDE, BUT NOT BE LIMITED TO, CRIMINAL AND DRIVING HISTORY RECORDS, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTIC OR MODE OF LIVING INFORMATION. UNDER THE PROVISIONS OF BOTH, THE FEDERAL FAIR CREDIT REPORTING ACT (15 USC AT 1681-1681U), AS AMENDED, AND THE NEW YORK STATE FAIR CREDIT REPORTING ACT (GENERAL BUSINESS LAW ARTICLE 25), AS AMENDED, BEFORE WE CAN SEEK SUCH REPORTS, WE MUST HAVE YOUR WRITTEN PERMISSION TO OBTAIN THE INFORMATION. YOU HAVE THE RIGHT, UPON WRITTEN REQUEST, TO A COMPLETE AND ACCURATE DISCLOSURE OF THE NATURE AND SCOPE OF THE REPORTS. YOU ARE ALSO ENTITLED TO A COPY OF YOUR RIGHTS UNDER THE FEDERAL FAIR CREDIT REPORTING ACT. YOU ARE ALSO ENTITLED, PURSUANT TO THE NEW YORK STATE FAIR CREDIT REPORTING ACT, UPON WRITTEN REQUEST, TO BE INFORMED WHETHER OR NOT A REPORT WAS REQUESTED, AND IF SUCH REPORT WAS REQUESTED, TO BE INFORMED OF THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CONSUMER REPORTING AGENCY THAT FURNISHED THE REPORT. UPON THE FURNISHING OF THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CONSUMER REPORTING AGENCY, YOU ARE ALSO ENTITLED TO INSPECT AND RECEIVE A COPY OF SUCH REPORT BY CONTACTING THE CONSUMER REPORTING AGENCY. IF WE PROCURE OR CAUSE TO BE PREPARED AN CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT, UPON WRITTEN REQUEST FROM YOU WITHIN A REASONABLE PERIOD OF TIME AFTER YOUR RECEIPT OF THIS DISCLOSURE, WE ARE REQUIRED TO, IN WRITING BY MAIL OR OTHERWISE, DELIVER OR PROVIDE TO YOU NOT LATER THAN FIVE (5) DAYS AFTER THE DATE ON WHICH THE REQUEST FOR SUCH DISCLOSURE WAS RECEIVED FROM YOU OR SUCH REPORT WAS FIRST REQUESTED, WHICHEVER IS THE LATER, A COMPLETE AND ACCURATE DISCLOSURE OF THE NATURE AND SCOPE OF THE INVESTIGATION REQUESTED. ADDITIONALLY, WE ARE REQUIRED TO PROVIDE YOU WITH A COPY OF ARTICLE 23-A OF THE NEW YORK CORRECTION LAW, WHICH GOVERNS THE LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY CONVICTED OF ONE OR MORE CRIMINAL OFFENSES. YOU ALSO HAVE ADDITIONAL RIGHTS AVAILABLE TO YOU UNDER THE SYRACUSE FAIR EMPLOYMENT AND LICENSURE ORDINANCE.

PLEASE NOTE THAT SUBSEQUENT REPORTS MAY BE REQUESTED OR UTILIZED IN CONNECTION WITH AN UPDATE, RENEWAL, EXTENSION, PROMOTION, APPOINTMENT RETENTION, ASSIGNMENT OR REASSIGNMENT OF EMPLOYMENT OR VOLUNTEERISM.

Please see the next page for the background check authorization form to be completed.



OFFICE OF PERSONNEL AND LABOR RELATIONS

Ben Walsh, Mayor

BACKGROUND CHECK AUTHORIZATION

LAST NAME: _____ FIRST NAME: _____ MIDDLE INITIAL: _____

HOME ADDRESS: _____

CITY: _____ COUNTY: _____ STATE: _____ ZIP: _____

SOCIAL SECURITY NUMBER: _____ DATE OF BIRTH: _____

DRIVER'S LICENSE NUMBER: _____ STATE ISSUED: _____

PLEASE LIST OTHER NAMES USED: _____

In connection with my suitability for employment/volunteer purposes with the City of Syracuse ("City"), I do hereby voluntarily and knowingly authorize the City, _____ ("Background Check Company" or "BCC"), or any duly authorized agent of the City to conduct a criminal background check, in addition to, any subsequent criminal background checks; and to obtain, procure or prepare any consumer reports or investigative consumer reports in relation thereto.

I do hereby authorize the verification of all information submitted: (1) in my employment/volunteer application; (2) in the above authorization and release; and (3) during the interview process, if applicable; from available sources, including but not limited to, employment, education, motor vehicle, criminal history and personal character information, to the extent permitted by applicable law. I do hereby authorize the City, BCC, or any duly authorized agent of the City to obtain or procure records, whether said records are public or private, and including those which may be deemed to be privileged or confidential in nature; and I release all such persons or entities from liability on account of such disclosures. Information obtained may be used by the City, BCC, or any duly authorized agent of the City for identification and verification purposes; and also may be considered by the City in determining any suitability for employment/volunteerism, to the extent permitted by applicable law. I certify that I have made true, correct, and complete answers and statements: (1) in my employment/volunteer application; (2) in the above authorization and release; and (3) in any interview; with the knowledge that they may be relied upon in consideration of my suitability for employment/volunteerism with the City. I understand and agree that any omission, false statement, misleading statement, or answer made by me on any application submitted to the City or during any interviews may be sufficient grounds for rejection of my employment/volunteerism application or for my discharge of employment/volunteerism with the City.

This authorization is valid during the course of my employment/volunteerism to the extent permitted by applicable law.

_____ I acknowledge receipt of a copy of New York State Correction Law Article 23-A.

_____ I acknowledge receipt of a copy of my FCRA Summary of Rights.

_____ I acknowledge receipt of the Disclosure Statement.

Printed Name

Applicant Signature

Date

Consumer Reporting Agency/Background Check Company Contact Information

Name _____

Address _____

Phone: _____ Fax: _____ Website: _____

APPENDIX B

McKinney's Executive Law § 296

§ 296. Unlawful discriminatory practices

Effective: October 31, 2010

Currentness

1-14. Intentionally Omitted.

15. It shall be an unlawful discriminatory practice for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to deny any license or employment to any individual by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based upon his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-A of the correction law. Further, there shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person, in a case alleging that the employer has been negligent in hiring or retaining an applicant or employee, or supervising a hiring manager, if after learning about an applicant or employee's past criminal conviction history, such employer has evaluated the factors set forth in section seven hundred fifty-two of the correction law, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant or employee.

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, in connection with the licensing, employment or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace

officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law.

APPENDIX C

McKinney's Consolidated Laws of New York Annotated Currentness

Correction Law (Refs & Annos)

▣ Chapter 43. Of the Consolidated Laws (Refs & Annos)

→ Article 23-A. Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses (Refs & Annos)

→ § 750. Definitions

For the purposes of this article, the following terms shall have the following meanings:

- (1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.
- (2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.
- (3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.
- (4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.
- (5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

→ § 751. Applicability

The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an

application for employment made by a prospective employee or previously made by a current employee.

→ § 752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

- (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
- (2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

→ § 753. Factors to be considered concerning a previous criminal conviction; presumption

1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

→ **§ 754. Written statement upon denial of license or employment**

At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

→ **§ 755. Enforcement**

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.

END OF DOCUMENT

APPENDIX D

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus that gather and sell information about your creditworthiness to creditors, employers, landlords, and other businesses. The FCRA gives you specific rights, which are summarized below. You may have additional rights under state law. For more information, go to www.ftc.gov/credit, or write to: Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

You must be told if information in your file has been used against you. Anyone who uses information from a consumer reporting agency to deny your application for credit, insurance, or employment – or take another adverse action against you – must tell you and give you the name, address, and phone number of the agency that provided the information.

You can find out what is in your file. At any time, you may request and obtain your report from a consumer reporting agency. You will be asked to provide proper identification, which may include your Social Security number. In many cases the report will be free. You are entitled to free reports if a person has taken adverse action against you because of information in a report; if you are the victim of identify theft; if you are the victim of fraud; if you are on public assistance; or if you are unemployed but expect to apply for employment within 60 days. In addition, you are entitled to one free report every twelve months from each of the nationwide credit bureaus and from some specialized consumer reporting agencies. See www.ftc.gov/credit for details about how to obtain your free report.

You have a right to know your credit score. Credit scores are numerical summaries of a consumer's creditworthiness based on information from consumer reports. For a fee, you may get your credit score. For more information, click on www.ftc.gov/credit. In some mortgage transactions, you will get credit score information without charge.

You can dispute inaccurate information with the consumer reporting agency. If you tell a consumer reporting agency that your file has inaccurate information, the agency must take certain steps to investigate unless your dispute is frivolous. For an explanation of dispute procedures, go to www.ftc.gov/credit.

Inaccurate information must be corrected or deleted. A consumer reporting agency or furnisher must remove or correct information verified as inaccurate, usually within 30 days after you dispute it. However, a consumer reporting agency may continue to report negative data that it verifies as being accurate.

Outdated negative information may not be reported. In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.

Access to your file is limited. A consumer reporting agency may provide information about you only to people with a valid need as determined by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

Your consent is required for reports that are provided to employers. A consumer reporting agency may not give out information about you to your employer, or potential employer, without your written consent. Blanket consent may be given at the time of employment or later.

You may choose to remove your name from consumer reporting agency lists for unsolicited credit and insurance offers. These offers must include a toll-free phone number you can call if you choose to take your name and address off lists in the future. You may opt-out at the major credit bureaus by calling 1-800-XXXXXXX.

You may seek damages from violators. If a consumer reporting agency, a user of consumer reports, or, in some cases, a furnisher of information to a consumer reporting agency violates the FCRA, you may sue them in state or federal court.

Identity theft victims and active duty military personnel have additional rights. Victims of identity theft have new rights under the FCRA. Active-duty military personnel who are away from their regular duty station may file "active duty" alerts to help prevent identity theft. For more information, visit www.ftc.gov/credit.

The FCRA gives several federal agencies authority to enforce the FCRA:

TO COMPLAIN AND FOR INFORMATION:	PLEASE CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4367 (Toll-Free)
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 800-934-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 202-720-7051