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## AUHR 3.11 CRIMINAL CONVICTION CHECKS

### Criminal Conviction Checks

In order to protect its interests and the well-being of its employees and the public, the Auditor's Office will check criminal conviction records prior to a final offer of employment for all positions. This may include promotions and transfers to certain positions as well. The criminal conviction check is intended to identify persons who have demonstrated unsafe, threatening or illegal behaviors and assess their fitness for complying with job requirements.

A criminal conviction check will also be conducted for individuals who have disclosed potentially job-related convictions during the interview or who have been reported as potentially having job-related convictions by previous employers during the course of employment verification or reference check.

Individuals who do not disclose all required convictions when requested may be denied employment for falsification of the application. If omissions are discovered after employment, employees may be subject to discipline up to and including termination.

All Auditor's Office employees are required to notify their supervisor of an arrest or conviction of any crime while employed by the Auditor's Office.

### Arrest Records May Affect Hiring Decisions for Some Employees

Candidates for positions that involve conducting or supporting investigations of alleged police misconduct may be denied a position based on arrest records as well as criminal conviction records. Except for these positions, the Auditor's Office will only consider conviction records in determining suitability for employment.

Hiring managers will make decisions about hiring a candidate with an arrest record in consultation with legal counsel. Any denial of employment based on an arrest record must have the written approval of the City Auditor.

## Reviewing Conviction Records

Possessing a criminal conviction will not necessarily bar an employee from hire with the Auditor's Office. Hiring managers shall ensure that any decision not to hire, promote or transfer because of a criminal conviction is job-related and consistent with business necessity. When reviewing a conviction record, the hiring manager shall:

1. evaluate the nature, gravity and frequency of the offense;
2. consider the duties of the position the employee holds or is applying for;
3. consider the age of the individual at the time of conviction;
4. consider the time that has passed since the conviction;
5. consider rehabilitation, if any;
6. evaluate the employee's entire work record or the applicant's work qualifications in total rather than only one aspect of the individual's history.

An applicant who is still on probation or parole may be denied employment based on their status and the evaluation of circumstances. If a pre-employment arrest becomes a conviction after hire, it will be evaluated by the hiring manager in consultation with the City Auditor.

Any denial of employment based on a criminal conviction record must have the written approval of the City Auditor.

## Expunged Record

If an applicant's criminal history has been legally expunged by a court order, it cannot be used to deny employment. An applicant who denies having a conviction record on an application form also cannot be later terminated for misrepresentation if the record has been legally expunged.

## Procedure

Criminal conviction checks are the responsibility of the hiring manager in consultation with Management Services. Management Services is responsible for paying the cost of obtaining the criminal conviction check. If an outside agency conducts the check, it must comply with the Fair Credit Reporting Act (FCRA). Consult with the City Attorney's Office concerning the FCRA requirements.

The top candidate will be instructed to complete the **Criminal Records Check Request Form** authorizing the Auditor's Office to conduct the conviction record

check. The hiring manager will review the conviction record to determine job relatedness, using the factors listed above.

### **Employment Contingent on Results**

Criminal conviction checks should be completed after a preliminary offer to the selected candidate and any offer must be conditional depending on the results of the conviction check.

### **Background Investigations**

Applicants for Auditor's Office positions that have direct access to sensitive law enforcement data will be subject to a background investigation that reviews an applicant's criminal history as well as other relevant information concerning the applicant's fitness for the particular position. See [Administrative Rule on Background Investigations](#).

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### **Human Resources Rule Information and History**

Questions about this administrative rule may be directed to the [Management Services Division](#) of the Auditor's Office.

Adopted by the City Auditor December 11, 2017.

Adapted from City of Portland Human Resources Administrative Rule 3.11 Criminal Conviction Checks.

Adopted by Council March 6, 2002, Ordinance No. 176302.

Last revised April 25, 2016.