

## **PRE-EMPLOYMENT BACKGROUND INVESTIGATION**

**POLICY:** The County of Cortland recognizes that public employees have an obligation to uphold the public interest and trust, and to secure property. The County of Cortland will conduct pre-employment background investigations,

**All Candidates** for County employment shall truthfully disclose the existence of any 1) conviction for any violation of law other than a minor traffic violation, 2) pending criminal charge and/or

3) removal from employment and provide the County with a written description using the “Disclosure and Consent Form”. The existence of a conviction and/or removal from employment does not represent an automatic bar to employment, but false, misleading or incomplete statements on the application or accompanying papers may result in termination. Pending criminal charges, in most cases, may result in a withdrawal of a conditional offer of employment until the charge reaches final disposition.

**All candidates** who receive a conditional offer of employment with the County shall undergo a pre-employment background investigation in accordance with this policy. Former County employees who are seeking re-employment are also subject to this policy. County Police Officers, Correction Officers, and designated Mental Health Professionals will continue background investigations using procedures mandated by State and Federal Law and Department of Public Safety requirements or Mental Hygiene Law. This policy excludes participants in Employment and Training Programs (training /school/internships).

An individual who receives a conditional offer of employment with the County must complete the pre-employment background investigation prior to commencement of employment. Nevertheless, special circumstances, when certified by the Personnel Officer, may require an applicant to start work before the pre-employment background investigation is completed. In such situation, any offer of employment remains conditional on the completion, and satisfactory review of, the background investigation.

Prior convictions may be a significant factor in the hiring decision if the conviction has a direct relationship to the specific employment sought or if the employment would involve an unreasonable risk to property or to the safety or welfare of the general public or specific individuals. The County will follow NYS Corrections Law, Article 23-a, Section 753 to determine if a candidate with a conviction is unsuitable for employment.

## PROCEDURE:

- I. **Notification and Authorization:** Notice of the pre-employment background investigation is provided in the “Employment/Civil Service Exam Application” and when signed by an applicant, authorizes the County to conduct a pre-employment background investigation that includes fingerprinting. Such investigation may be conducted to determine suitability for appointment. Failure to meet the standards of the investigation or provide truthful statements on the application may result in disqualification or termination of employment.
- II. **Initial Evaluation:** All applicants are required to inform the County if they have been convicted of any violation of law other than a minor traffic violation, have any criminal charges pending, or if they have ever been removed from any type of employment. If an applicant discloses the existence of a Background Incident on the “Disclosure and Consent Form” they must provide the County with a written explanation of the circumstances which led to the incident, including the nature of the incident, the penalty imposed, the length of time elapsed, age at time of the incident and any rehabilitative efforts undertaken. This form also authorizes the County to further investigate the applicant’s background.
- III. **Conditional Offer of Employment:** All pre-cleared applicants receive a written conditional offer of employment with the County will undergo fingerprinting by the Department of Public Safety for a criminal background investigation through the New York State Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI). Additional investigative measures may be taken if warranted.

A conditional offer of employment letter will be provided by the Department Head and/or designee after the Personnel Officer reviews the applicant’s written explanation of conviction and/or removal from employment (if applicable). The letter will include an attachment stating the requirements of the criminal background investigation. The issuance of a conditional offer of employment, after reviewing disclosed Background Incidents, does not constitute a finding that a candidate is suitable for employment.
- IV. **Candidate Processing:** After issuing a conditional offer of employment the Department Head or/designee:
  - a. sends a copy of the conditional offer of employment letter to the Personnel Department
- V. **Charges:** The fee for the fingerprinting will be paid for by the Personnel/Civil Service Office and billed back to the hiring department regardless of the outcome and the resulting employment of the applicant.
- VI. **Assessment of the Candidate:** Once completed, the Personnel Officer or designee will review the Criminal History Record Information (CHRI) and all pertinent information to determine suitability for employment. The final approval or rescinding of a conditional offer of employment on the basis of the CHRI shall be decided by the Personnel Officer, or designee, using the “Background Investigation Review Worksheet” based on the factors contained in NYS Corrections Law Article 23-a.
- VII. **Employment Decision:**
  - a. The Personnel Officer, or designee, will notify the Department Head or designee, of the outcome of the CHRI Review, indicating whether or not the candidate is suitable for employment.

- i. If the candidate IS suitable for employment, the Personnel Officer, or designee, will inform the department to proceed with the hiring process. CHRI will not be disclosed to the hiring department.
  - ii. If the candidate IS NOT suitable for employment, the Personnel Officer, or designee, will inform the hiring department that a letter should be sent to the candidate rescinding the conditional offer of employment due to the results of the background investigation.
- b. At the written request of a candidate who is denied an offer of employment, the Personnel Officer shall provide a written statement to the candidate within 30 days regarding the reasons for the denial of employment (NYS Corrections Law Article, 23-a, Section 754).

**VIII. Records Retention and Access:**

- a. Access and Storage of CHRI shall be in compliance with the DCJS Use and Dissemination Agreement.
- b. The CHRI shall be retained only for the duration of the appointment/investigation process. Thereafter, the CHRI must be destroyed in accordance with the established methods used for disposing confidential documents.
- c. Secondary dissemination of CHRI received from DCJS and/or FBI is not permitted for any reason unless specifically authorized by law.
- d. The CHRI is not to be given to or reviewed by the applicant. If a candidate is interested in reviewing their CHRI, the candidate should be directed to contact DCJS for the purpose of conducting a Record Review.

**REFERENCE:** Civil Service Law 50, subdivision 4

New York Corrections Law Article 23-a

Adopted: July 28, 2016

Effective: Sept. 1, 2016