

## **Employee Clearances**

(Creation & revision: 5/23/05; 6/20/05; 6/20/2011; 2/27/2012; 4/20/2015; 6/15/2015)

### **Purpose**

The Employee Clearances policy is intended to make clear that all existing and prospective personnel employed by Cumberland County Library System and its member libraries, and who will have direct contact with children in the form of care, supervision, guidance or control of children or routine interaction with children, are required to obtain a report of criminal history record (or statement that no criminal history record exists) from the Pennsylvania State Police, child abuse history clearance from the Department of Human Services, and the fingerprint based federal criminal history submitted through the Pennsylvania State Police or authorized agent in accordance with Pennsylvania's Child Protective Services Act (23 Pa. C.S. §6344 (a.5)).

The policy is also intended to provide clear direction on hiring or terminating library personnel whose background clearance reports indicate conviction of offenses outlined below. The policy is not intended to create any rights for any person, to obligate the library system or its member libraries to act at any time or in any manner in regard to hiring employees, or to establish any responsibility or liability of the library system or its member libraries.

In addition, the enumeration of certain offenses in the policy is not intended to limit the authority of the library to terminate for conviction of any other crimes or for any other reason whatsoever. All employment is considered at the will of the library system or member library.

### **Requirement for Background Checks**

All persons who apply for employment with the library system or its affiliated member libraries will be required to submit the following information:

- (i) A report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to *18 Pa.C.S. § 9121(b)(2)*.
- (ii) A certification from the Department of Human Services as to whether the applicant is named in the statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.
- (iii) A Federal (FBI) criminal history record information check. The applicant shall submit a full set of fingerprints in a manner prescribed by the Pennsylvania Department of Human Services or Department of Education. The Pennsylvania Department of Human Services and the Department of Education serves as an intermediary to obtain the FBI criminal history record information check.

Clearances, or, at the discretion of the library administrator or board, the system's "Disclosure Statement for Provisional Employees" must be submitted prior to the commencement of employment or service. The library system member employing the person will keep a copy of each of the clearances for the employees' personnel files.

For applicants who are 17 years of age or younger, the State Police may not maintain criminal information. However, Pennsylvania law requires that criminal history records checks be conducted on all prospective employees, including those 17 years of age or younger. Therefore, a criminal records check shall be requested on individuals 17 years of age or younger, and a report of "no information available" will be considered compliance.

### **Grounds for Denying Employment**

(1) In no case shall an applicant be hired where the Department of Human Services has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.

(2) In no case shall an applicant be hired if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

- Chapter 25 (relating to criminal homicide).
- Section 2702 (relating to aggravated assault).
- Section 2709.1 (relating to stalking).
- Section 2901 (relating to kidnapping).
- Section 2902 (relating to unlawful restraint).
- Section 3121 (relating to rape).
- Section 3122.1 (relating to statutory sexual assault).
- Section 3123 (relating to involuntary deviate sexual intercourse).
- Section 3124.1 (relating to sexual assault).
- Section 3125 (relating to aggravated indecent assault).
- Section 3126 (relating to indecent assault).
- Section 3127 (relating to indecent exposure).
- Section 4302 (relating to incest).
- Section 4303 (relating to concealing death of child).
- Section 4304 (relating to endangering welfare of children).
- Section 4305 (relating to dealing in infant children).
- A felony offense under section 5902(b) (relating to prostitution and related offenses).
- Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
- Section 6301 (relating to corruption of minors).
- Section 6312 (relating to sexual abuse of children).

- The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.

(3) In no case shall an applicant be hired if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the Act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

### **Provisional Employment While Background Checks Processed**

At the discretion of the library administrator or library board, prospective personnel may work on a provisional basis for no more than 90 days, from the time employment is commenced if all of the following conditions are met:

- (1) The applicant has applied for the three required clearances and the applicant provides a copy of the completed request forms to the library administrator.
- (2) The library administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to the conditions outlined under Grounds for Denying Employment.
- (3) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to the Grounds for Denying Employment or has not been convicted of an offense of a similar nature to those crimes under the laws or former laws of the United States, or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.
- (4) The administrator requires that the applicant not be permitted during the period of provisional employment to work alone with children and that the applicant work in the immediate vicinity of a non-provisional employee.

If the information obtained in the background checks reveals that the applicant is disqualified from employment as outlined under Grounds for Denying Employment the provisional employee shall be immediately terminated.

### **Renewal of Clearances**

All three clearances must be renewed every 36 months.

Persons employed prior to Dec. 31, 2014 are required to obtain updated clearances as follows:

- Within 36 months of the date of the most recent clearances;
- By Dec. 31, 2015, if the clearances are older than 36 months; or
- By Dec. 31, 2015, if they have not received clearances because they were employed in the same position and were not required to obtain a clearance under prior law.

## **Continued Employment**

If an employee is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the employee must provide the administrator or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the employee has been listed as a perpetrator in the statewide database.

If the library administrator has a reasonable belief that an employee was arrested or convicted for an offense that would constitute grounds for denying employment or was named as a perpetrator in a founded or indicated report, or the employee has provided notice as required hereinabove, the library administrator shall immediately require the employee to submit current clearances and the cost to obtain those clearances shall be borne by the employee.

An employee who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment.