



NEW HANOVER COUNTY

Administrative Memorandum

Ensuring Equal Hiring Opportunity to All Qualified Individuals

Memorandum No.	16-001
Originally Issued:	July 1, 2016
Effective Date:	July 1, 2016
Last Revised Date:	July 1, 2016
Revision (select one):	<input checked="" type="checkbox"/> As Needed <input type="checkbox"/> Annually
Approved By:	Chris Coudriet, County Manager

BAN THE BOX – Ensuring Equal Hiring Opportunity to All Qualified Individuals

I. INTRODUCTION AND PURPOSE

New Hanover County is committed to ensuring a) the safety and security of employees and the public and b) that all qualified individuals seeking employment within the County should be given an equal opportunity to apply for available positions, including those who have had a past criminal history and have been rehabilitated and are rebuilding their lives. New Hanover County recognizes that:

- There are an estimated 70 million U.S. adults that have criminal arrest and conviction records. ¹
- Employment has been found to be a significant factor in decreasing recidivism. ²
- Reducing job barriers helps the economy. ²
- If hiring discrimination takes place, studies have shown it is most likely (76 percent of the time) to take place at the first interaction: the submission of a job application. ²
- There is a growing nationwide initiative which is supported by 23 states and over 100 city and county governments across the country referred to as “Ban the Box”, in which

¹ In 2012, there were an estimated 100,596,300 subjects (“individual offenders”) in the state criminal history files within the fifty states, American Samoa, Guam and Puerto Rico. U.S. Dept. of Justice, Bureau of Justice Statistics, Survey of State Criminal History Information Systems, 2012 (Jan. 2014) at p.2 (<https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>) To account for duplication (individuals who may have criminal records in more than one state), NELP conservatively reduced the numbers cited in the survey by 30% to 70,417,410 subjects. The U.S. Census 2012 population estimate for those that are 18 years and over was 240,185,952. Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States: April 1, 2010 to July 1, 2012, U.S. Census Bureau, Population Division (June 2013). (www.census.gov) Using these estimates, there are 70 million U.S. adults or almost.

² www.nelp.org/content/uploads/Fair-Chance-Ban-the-Box-Research.pdf

employers are encouraged to remove questions regarding prior criminal convictions from employment applications.²

- In 2012 the U.S. Equal Employment Opportunity Commission established guidelines advising employers to make individualized assessments of candidates' past criminal convictions in determining their eligibility for hire.³

The purpose of this Administrative Memorandum is to establish consistent hiring procedures for New Hanover County, implementing fair chance hiring practices on criminal background record check investigations.

II. ORGANIZATION(S) / INDIVIDUALS AFFECTED

This Administrative Memorandum applies to all New Hanover County departments and agencies. The Sheriff's Office and the Register of Deeds Office may participate at their own discretion. All paid and / or volunteer positions that utilize the NHC applications are affected, with the exception of poll workers at the Board of Elections, which are exempt from pre-employment records screening.

III. DEFINITIONS

Adverse Action: A denial of employment or volunteer position to a prospective employee or volunteer.

Applicant: A person who has applied to be considered for employment in a position with the County.

Criminal Background Record Check: The record of an individual's criminal conviction(s) obtained from countries, states and counties where the applicant lives or has lived, under any name.

Employee: Any individual hired by the County to perform work for the County and paid by the County payroll.

Fair Credit Reporting Act (FCRA): Federal regulations of the collection and use of information contained in consumer reports prepared and assembled by a consumer reporting agency.

Motor Vehicle Record: An individual's driving history record obtained from the state where the applicant/employee's driver's license is or was issued, or through agencies with license to obtain these reports on the County's behalf.

Nationwide Federal Criminal Check: This report will disclose convictions from all of the Federal District Courthouses nationwide. Federal laws govern crimes more severe in nature than those under that county or state jurisdiction. These offenses cover convictions such as embezzlement, child pornography, kidnapping, fraud, etc. It also includes any crime that is committed on federal property such as a military base camp.

³ https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

Reference Check: A basic work profile received from a professional reference provided by the applicant or an employer listed on the application submitted, generally consisting of: title, basic responsibilities, relationship, professional and interpersonal skills.

Residency History: This report compiles a list of names and addresses that have been associated with a social security number. This list is used to provide a map of which countries, states and counties to search in order to ensure a thorough investigation of criminal background records.

Sexual Offender Registry: This report searches a nationwide database to identify potential search locations at the county level or within the National Sex Offender Registry. Results will contain all information available regarding an applicant in the National Sexual Offender Registry repository.

Social Security Alert: This report verifies that a social security number is valid and associated with an applicant's name. The report will also reveal other names associated with the social security number, including maiden names or aliases, and addresses the social security number has been associated with through various sources such as voting registration, mailing lists, credit history, magazine subscriptions, and property records.

Volunteer: A person who provides services to the County without receiving or expecting payment.

IV. POLICY

New Hanover County requires pre-employment background checks for all full-time, part-time, casual part time, temporary, intern, or volunteer applicants. Pre-employment background checks are conducted to ensure the safety and security of employees and the public, to verify the accuracy of the information provided by the candidate, and to serve as a preventative measure that enables the County to determine if a candidate's background indicates a possible safety threat or business risk to other employees, the public, the information entrusted to our care, or to the integrity of the work performed at the County.

The County will not inquire into an applicant's criminal history on an initial employment application form, unless explicitly mandated by law. New Hanover County job opportunities websites will include the following statement: **"The hiring/selection process requires a criminal background check and pre-employment drug screening on all final internal and external candidates applying for positions with New Hanover County."**

The County will conduct a criminal background check on applicants following a review of the applicant's credentials, determination that the applicant is otherwise qualified for the position, and recommendation by the hiring department to offer the job to the applicant.

Background checks will be conducted on final candidates applying for any position within New Hanover County. The type of information that will be collected as part of a background check includes, but is not limited to: reference checks, social security number verification, education verification, criminal background record check, and, if applicable, a sex offender registry check, licenses and certifications verification and a motor vehicle record check.

Background checks must be in compliance with all federal and state statutes, such as the Fair Credit Reporting Act (FCRA), Title VII of the Civil Rights Act of 1964, and the Local Government Records Retention Schedule. The checks must be consistent with the guidelines set forth by these laws requiring organizations to obtain a candidate's written authorization before obtaining a criminal background report or motor vehicle record check, to notify candidates if an adverse action may be taken against them or has been taken against them, and to properly store and dispose of information derived from such reports.

In no case may records of criminal arrests, dismissals, or convictions which have been expunged be used by the County in connection with employment, except as dictated by law. The results of a background check cannot be used as a basis for denying employment, unless the denial of employment is determined to be due to job-related issues or business necessity. A previous conviction does not automatically disqualify an applicant from consideration for employment with the County. All of the following factors, but not limited to those listed below, will be considered for those applicants with a history of criminal convictions in determining whether to hire the applicant, prior to an adverse action being taken:

- The nature of the conviction;
- The relationship of the conviction to the duties of the position and values of the organization;
- The length of time that has passed since the conviction;
- The number (if more than one) of convictions;
- The age of the applicant at the time of the conviction;
- Efforts of rehabilitation after the conviction;
- Whether hiring the applicant would pose a risk; business, safety, or otherwise to the organization.
- Whether the individual is bonded under a federal, state, or local program.

In circumstances where a candidate's criminal background record check yields information that is of concern and may disqualify him or her from consideration of employment, the County will follow all applicable regulations in notifying the candidate, in accordance with the Fair Credit Reporting Act (FCRA). In support of the Ban the Box initiative, the County will include the provision of an individualized assessment, allowing the candidate to respond to the adverse information and provide evidence of mitigation or rehabilitation. A detailed description of the pre-employment background record check process followed can be found in the New Hanover County hiring procedures.

If an applicant is found to have deliberately withheld information with the intent to mislead or is found to have falsified information pertaining to previous convictions, education, employment history, or any information deemed pertinent to employment, the applicant will be disqualified from further consideration, due to falsification of an application; or if this is discovered post-employment, the employee will be subject to dismissal.

V. INTERNAL CONTROLS

Human Resources will determine the necessary steps to be followed as a result of criminal background checks. This will include approval for hiring departments to proceed with offers of employment to top candidates or to reject candidates based on criminal background results

In accordance with FCRA regulations, all information obtained from the background check process will only be used as part of the hiring process and must be held in strictest confidence by Human Resources and hiring managers and administrative staff involved in the pre-employment process. Background check release forms and reports of results shall be maintained in Human Resources and disposed of under FCRA disposal rules.