

To: HR Council, ABA list, All HR Staff, Equal Opportunity and Affirmative Action group

From: Recruitment and Staffing

Subject: Changes to Legal Hiring under Philadelphia's Fair Criminal Standards Law- Hiring Officer Handbook and Offer Letter Templates have all been updated, in accordance with the law.

The City of Philadelphia's Fair Criminal Standards Ordinance, also known as the "ban the box" law, has been amended. The amendment goes into effect on **March 14, 2016.**

The amendment changes when and how an employer may legally consider an applicant's criminal record during the employment process. It also prohibits any automatic exclusion of applicants with criminal convictions from a job or class of jobs.

Penn is committed to fair and legal recruiting and employment practices. To honor that longstanding commitment, be sure to follow the guidelines below.

Failure to comply with the amended Fair Criminal Standards Ordinance may result in fines up to \$2,000, as well as lawsuits.

Dos and Don'ts

- **Do not ask applicants or potential applicants to disclose or reveal any criminal convictions at any time during the application process.** According to Philadelphia law, the application process begins when the applicant inquires about employment and ends when the employer extends a conditional offer to the applicant. Asking applicants about criminal convictions before making a conditional job offer is unlawful, even if applicants are told that they need not answer the questions.

You may notify prospective applicants that the University will conduct a criminal background check after a conditional job offer is made and that any consideration of the background check will be tailored to the requirements of the job. Indeed, a notice regarding background checks will appear on all job postings within Penn's online employment application site

<https://jobs.hr.upenn.edu>.

Do not discuss a candidate's criminal record during the application process, even if the candidate offers the information. If candidates disclose a criminal conviction to you, inform them that criminal convictions are considered and addressed only if a candidate receives a background check as part of a conditional offer of employment.

- **Do use Penn's offer letter templates to ensure that your offer letter properly informs candidates that the employment offer is conditional on satisfactory background check results.** Updated templates are now available for download at <https://www.hr.upenn.edu/myhr/resources/hiringofficer/handbook/appendix> and <https://www.hr.upenn.edu/myhr/resources/forms/recruitment#offer>.
- **Do not extend an offer to another candidate until the preferred candidate's background has been investigated.** The amended Philadelphia law requires 10 business days for conditionally hired candidates to provide evidence of the inaccuracy of information in their background check or to provide an explanation regarding their background check.

Background Checks Will Continue

The University will conduct criminal background checks on all candidates for regular full- and part-time staff positions who receive conditional employment offers; however Penn's online employment application forms will no longer ask applicants to consent to a background check at the start of the application process. A criminal background check must be completed before a candidate's start date.

All background checks must be reviewed by an HR representative. No candidate will be automatically excluded from employment due to a felony or misdemeanor conviction. Rather, all convictions will be reviewed and analyzed in accordance with applicable legal requirements, taking into consideration various factors including but not limited to the nature of the offense, the time that has passed since the offense, the particular duties of the job being sought, the applicant's employment history before and after the offense and any period of incarceration, any character or employment references provided by the applicant, and any evidence of the applicant's rehabilitation since the conviction. Please consult your HR representative for further guidance.

For More Information

If you have any questions or concerns, please contact your school or center HR recruitment representative. For a listing of representatives, check the Recruitment and Staffing contacts page at

<https://www.hr.upenn.edu/myhr/resources/hiringofficer/contacts>, or call Recruitment and Staffing at 215-898-7287.

You can also refer to the newly updated Penn Hiring Officer Handbook, available online at

<https://www.hr.upenn.edu/myhr/resources/hiringofficer/handbook>.

You can also visit the City of Philadelphia's New and Alerts at

<https://cityofphiladelphia.wordpress.com/2015/12/15/mayor-nutter-signs-legislation-supporting-returning-citizens-looking-for-employment/>

System Generated Emails

A system generated email will be sent to all hiring officers at the time a new job requisition is posted to PeopleAdmin. The email will highlight Ban the Box amendments and the University of Pennsylvania's updated hiring process.