



**STATE OF NORTH CAROLINA
OFFICE OF STATE HUMAN RESOURCES**

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July 23, 2025

TO: All Agency Human Resources Directors and Talent Acquisition Consultants

CC: Agency Chief Deputies

FROM: Kristin Siemek, State Talent Acquisition Manager **KS**
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RE: Guidance for Recruiting and Hiring Individuals Formerly Involved in the Justice System

This memo provides guidance around recruiting and hiring individuals formerly involved in the justice system, in support of the Stein administration's commitment to [Reentry 2030](#).

As background, the N.C. Joint Reentry Council was established by Gov. Roy Cooper under [Executive Order 303](#), issued Jan. 29, 2024, and directs all Cabinet agencies to coordinate efforts in improving rehabilitation and reentry of offenders returning to their communities after serving a sentence in a state correctional institution.

This guidance will be available on the pages for the [Applicant Reference Checks Policy](#) and [Recruitment and Posting of Vacancies Policy](#).

This memo and guidance information will also be added to OSHR's website at: [OSHR Memos](#).

In this memo, OSHR provides suggestions about best practices in two areas:

- Two prepared sentences that can be added to vacancy announcements. This short statement lets people know that they are welcome to apply for state jobs if they have had previous involvement with the justice system.
- Best practices when agencies perform background checks. This section includes guidance under Executive Order 158, suggested procedures for compliance with the Fair Credit Reporting Act, and topics that need to be covered in any background check policy maintained by your agency.

Guidance for Recruiting and Hiring Individuals Formerly Involved in the Justice System

A. Statement on Vacancy Announcements

OSHR encourages agencies to use a statement at the top of vacancy announcements inviting individuals who may have previous involvement with the justice system to apply.

This statement could be used on:

- **All vacancy announcements**, if your agency does not conduct background checks, or
- **Select vacancy announcements**, for positions for which a criminal background would not disqualify an applicant.

Statement example:

Our agency supports second-chance employment for individuals who were previously incarcerated, or justice involved. We invite all potential applicants to apply for positions for which they may be qualified.

B. Use of Background Checks

Remember [Executive Order 158](#)-Fair Chance Hiring

All Agency HR staff should take the Fair Chance Hiring training. Agency HR staff should take this training every 2 years.

- Agencies may not conduct a background check or inquire into criminal history prior to the completion of the initial job interview for the candidate.
- In accordance with Executive Order 158, when making an employment decision, agencies are prohibited from considering the following:
 - Arrests not resulting in a conviction
 - Charges resulting in dismissal or not guilty
 - Charges or convictions that do not relate to the underlying employment matter
 - Expunged or pardoned convictions
- Employment decisions shall not be based on the criminal history of an individual unless that criminal history is demonstrably job-related and consistent with business necessity associated with the position, or if state or federal law prohibits hiring an individual with certain criminal convictions for a particular position.

Consent is Key

Agencies should always get consent from the applicant or employee prior to conducting a background check.

- Viewing a candidate's social media or searching for publicly available information online is considered a background check. The Fair Credit Reporting Act would not apply, but if this type of information is collected "unofficially" and not consistently, it opens the agency to claims of discrimination if an adverse action is taken based on information discovered during the background check.

Fair Credit Reporting Act (FCRA)

If you get background information (for example, a credit or criminal background report) from a company in the business of compiling background information you must follow the Fair Credit Reporting Act:

- Tell the applicant you might use the information for decision about their employment-this notice cannot be in an employment application and must be in writing and in a stand-alone format.¹
- Get the applicant's consent to conduct a background check. This can be part of the document you use to notify the person that you will get the report.²

Before you take an adverse employment action, you must give the applicant or employee:

- a notice that includes a copy of the consumer report you relied on to make your decision; and
- a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act."

After you take an adverse employment action, you must tell the applicant or employee (orally, in writing, or electronically):

- that they were rejected because of information in the report;
- the name, address, and phone number of the company that sold the report;
- that the company selling the report didn't make the hiring decision, and can't give specific reasons for the hiring decision; and
- that they have a right to dispute the accuracy or completeness of the report, and to get an additional free report from the reporting company within 60 days.³

Background Check Policy

Have a **policy** on your agency's use of background checks. The EEOC recommends having a tailored, written policy in place.⁴ This helps provide consistency in your agency's

¹ U.S. Equal Employment Opportunity Commission (EEOC) and Federal Trade Commission (FTC), Background Checks: What Employers Need to Know (March 11, 2014). The EEOC Guidance is available at <https://www.eeoc.gov/laws/guidance/background-checks-what-employers-need-know>.

² EEOC and FTC, Background Checks: What Employers Need to Know.

³ EEOC and FTC, Background Checks: What Employers Need to Know.

⁴ U.S. Equal Employment Opportunity Commission (EEOC), Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act (April 25, 2012).

background check process, which helps ensure that applicants are not discriminated against in the hiring process.

- The policy should include:
 - What positions require background checks
 - This must be consistently applied and can never be based on a specific candidate's race, sex, national origin, color, ethnicity, or any other protected characteristic.
 - How background checks will be conducted (for example, will the agency use a background reporting company?).
 - What types of criminal convictions are disqualifying for employment.
 - Should be job related and consistent with business necessity.
 - The process the agency will follow if a background check reflects potentially disqualifying information.
 - Agencies must inform the candidate that they may be excluded because of past criminal conduct but should also inform candidates that the agency will conduct an individualized assessment of past convictions and that the candidate will be allowed to provide information to support their fitness for the position despite past criminal history.
 - Agencies must conduct an individualized assessment of the background check information and information provided by the applicant related to the background check.
 - The individualized assessment should include information provided by the applicant such as:
 - Records of expungement;
 - Proof of incorrect information in the background check (e.g. the information in the background check belongs to someone else with the same name);
 - Rehabilitation efforts; and
 - Employment or character references and any other information regarding fitness for the position.
 - Agencies should also consider:
 - The length of time between the criminal conviction and the application;
 - The nature of the conviction and if it relates to the job being sought;
 - The facts or circumstances surrounding the offense or conduct;
 - The number of offenses for which the individual was convicted;
 - Age at the time of conviction, or release from prison;

- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct; and
 - The length and consistency of employment history before and after the offense or conduct.⁵
- The process for notifying a candidate of their non-selection based on their background.
 - What documentation the agency should maintain to justify selection or non-selection of applicants based on their background check and individualized assessment.

If you have additional questions, please reach out to Kristin Siemek, State Talent Acquisition Manager, OSHR: Kristin.siemek@nc.gov | 984.236.0853 or Anna Perkinson, Assistant General Counsel, OSHR: anna.perkinson@nc.gov | 919.710.0740.

Thank you for your commitment to a better North Carolina for all.

Signature: *Kristin Siemek*

Kristin Siemek (Jul 23, 2025 16:48:45 EDT)

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⁵ EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act.