



RESOLUTION NO. 12-34

Adopting a Metropolitan Washington Airports Regulation for Pre-Employment Criminal History Record Checks

WHEREAS, Staff believes that conducting criminal background checks on all applicants for Airports Authority employment is an essential component of a suitability for employment investigation conducted by the Airports Authority Police department's Employee Standards Unit and is a crucial tool in the continued efforts of the Airports Authority to hire employees who meet the desired level of professionalism and integrity;

WHEREAS, On October 17, 2012, the Business Administration Committee authorized staff to initiate the process of adopting a new regulation to obtain criminal history record information based on an applicant's fingerprints from the Virginia Central Criminal Records Exchange for the conduct of investigations to determine an applicant's suitability for employment;

WHEREAS, On November 4, 2012, notice was published in *The Washington Post* that the Airports Authority is considering adopting a regulation to authorize the Airports Authority Police Department to conduct criminal history record checks on all applicants to whom a conditional offer of employment has been made, to set the criteria for determining whether a criminal record relates to the position for which the person applied, and to require that the criminal history record information be kept confidential;

WHEREAS, The November 4, 2012, notice also stated that the Airports Authority would hold a public hearing on the proposed regulation on November 14, 2012, at a specified location, and would accept written comments through November 19, 2012;

WHEREAS, The notice and the text of the proposed regulation was also posted on the Airports Authority's website;

WHEREAS, No individuals appeared at the public hearing on November 14, 2012, and no comments on the regulation were submitted;

WHEREAS, After considering the staff recommendation, the Board has determined that it is in the interest of the public welfare and safety to adopt the

proposed regulation, as set forth below, with the force and effect of law; now, therefore, be it

RESOLVED, That a new Section 9.11 of the Metropolitan Washington Airports Regulations is hereby adopted and shall read as follows:

§ 9.11. Criminal History Records Check of Applicants for Authority Employment

- (1) In the interest of public welfare and safety, all applicants to whom a conditional offer of employment with the Authority has been made shall be investigated to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration. Accordingly, the President or his or her designee shall request from the Virginia Central Criminal Records Exchange and the Federal Bureau of Investigation, a criminal record check of each such applicant for Authority employment.
- (2) Each applicant required to undergo a criminal background check, upon receiving a conditional offer of employment, shall submit to fingerprinting and provide personal, descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.
- (3) Criminal history record information considered in accordance with this section shall include outstanding warrants, pending criminal charges, and records of conviction.
- (4) The President or his or her designee shall review the criminal history record information to determine whether the conviction record, if any, of the applicant is compatible with the nature of the Authority employment under consideration. In making this determination and in determining whether a criminal conviction directly relates to a position, the President or his or her designee shall consider the following criteria:
 - (a) the nature and seriousness of the crime;
 - (b) the relationship of the crime to the work to be performed in the position applied for;
 - (c) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

- (d) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position being sought;
 - (e) the extent and nature of the person's past criminal activity;
 - (f) the age of the person at the time of the commission of the crime;
 - (g) the amount of time that has elapsed since the person's last involvement in the commission of a crime;
 - (h) the conduct and work activity of the person prior to and following the criminal activity; and
 - (i) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.
- (5) Any applicant who is denied employment on the basis of criminal history record information obtained pursuant to this section will be notified in writing and will be given an opportunity to inspect the information for the purpose of clarifying, explaining, or denying the information.
- (6) The criminal history record information provided in accordance with this section shall be confidential, shall be used solely to assess eligibility for Authority employment and for access to restricted areas of the Airports in compliance with 49 U.S.C. § 44936 and its implementing regulations, and shall not be disseminated except as provided in this section.

2. That this Resolution shall be effective upon its adoption.

Adopted December 12, 2012



Quince T. Brinkley, Jr., Secretary