



City of Pittsburgh  
Operating Policies

<b>Policy: Act 33/34</b>	<b>Original Date: 1/2003</b>
	<b>Revised Date: 8/2008</b>

**PURPOSE:** To establish guidelines for all City employees who are in “direct contact with children”.

**POLICY STATEMENT:** All employees working in “direct contact with children” must obtain and maintain valid Act 33/34 clearances. All employees shall be required to recertify their Act 33/34 clearances on an annual basis.

**POLICY**

Accordingly, prior to appointment each applicant or annually each existing employee shall submit the following:

- 1) A report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police. The reports will be evaluated to ensure that the applicant’s/employee’s record is not disqualifying as defined in Section 2.
- 2) A certification from the Department of Public Welfare of the Commonwealth as to whether the applicant/employee is named in the central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.
- 3) If the applicant/employee is not a resident of the Commonwealth or has not lived within the Commonwealth for the last five (5) years, the City shall require that applicant/employee submit a report of federal criminal history record information. To do so, the applicant/employee must submit a full set of fingerprints to the City of Pittsburgh which it will submit to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information.

## **DISQUALIFICATION**

The City of Pittsburgh will not hire an applicant or continue to employ an individual where the City has verified that the applicant/employee is named in the central register as perpetrator of a founded report of child abuse committed within the five (5) years period immediately preceding verification.

The City of Pittsburgh will not hire an applicant or continue to employ an individual where the applicant's/employee's criminal history record information indicates that he or she has been convicted of one or more of the following offenses (under Title 18 of the Pennsylvania Crimes Code-criminal offenses or equivalent federal law or law of another state):

- Chapter 25 (relation to criminal homicide)
- Section 2702 (relating to aggravated assault)
- Section 2709 (relating to harassment and 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 sexual 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 a child)
- Section 4305 (relating to dealing in infant children)
- A felony 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 above.

A felony 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 (5) year period immediately preceding the verification.

The City may also choose not to hire an applicant or continue to employ an individual who has been named in the central register as a perpetrator of a founded report of child abuse or who has a criminal record with convictions for any of the above offenses that occurred earlier than the five (5) year period immediately preceding verification.

## **PROVISIONAL APPOINTMENTS**

Notwithstanding the requirements of this policy, the City may employ applicants at the discretion of the department director, on a provisional basis until receipt of reports required in Section 1 of this policy, if all of the following conditions are met:

- 1) The applicant has applied for the information required and the applicant provides a copy of the appropriate completed request forms to the City within two weeks of offer of employment.
- 2) The City has no knowledge of information pertaining to the applicant which would disqualify him or her from employment.
- 3) The applicant swears or affirms in writing that he or she is not disqualified from employment under the terms of this policy.

If an employee fails to timely submit required applications, he or she will be dismissed.

## **COVERED INDIVIDUALS**

All employees of the City of Pittsburgh who have “direct contact with children” shall be required to provide Act 33/34 clearances pursuant to 23 Pa.C.S. §6344 prior to appointment and shall recertify their clearances on an annual basis to maintain their employment with the City.

For purposes of this policy, all individuals who come into “direct contact with children” regardless of whether they are employees of the City of Pittsburgh are required to obtain Act 33/34 clearances. These individuals include all employees, workers, volunteers, or independent contractors of any organizations, corporations, businesses, or entities with which the City contracts to perform professional services where the scope of services involves “direct contact with children.” This requirement will be made part of the professional service agreement and shall require that the contracting organization insure that any of its employees, workers, volunteers, or independent contractors who will perform the services in the Agreement obtain and maintain, on an annual basis, Act 33/34 clearances. For purposes of this policy, these individuals will be referred to as “employees.”

For purposes of this policy, the Department of Personnel and Civil Service Commission shall determine which job positions within the City have “direct contact with children” and therefore require Act 33/34 clearances. The Department of Personnel and Civil Service Commission shall review the list of positions requiring Act 33/34 annually (by October 31<sup>st</sup>).

## **PROCESS FOR CITY OF PITTSBURGH APPLICANTS OR EXISTING EMPLOYEES**

Upon request, the City will provide copies of the pertinent request forms necessary to obtain Act 33/34 clearance to applicants. Applicants are required to submit the request forms to the agency indicated on the request form along with the appropriate fee. Applicants will receive a report from the Commonwealth of Pennsylvania via the U.S. mail. Applicants are required to return this information to the City of Pittsburgh prior to appointment or if he or she is provisionally appointed within 30 days of appointment (if applying in-state) and 90 days (if applying from out-of-state).

Existing employees must provide proof of re-certification prior to the expiration of their current certification. The cost of re-certification is the responsibility of the employee. Departments are responsible for ensuring that all employees in positions requiring Act 33/34 clearance provide updated and current proof of certification, and for maintaining a copy of the current certification on file.

All City sponsored or City subsidized youth programs will be required, as a condition of receiving City funds, that all of its employees, workers, volunteers or independent contractors obtain and maintain valid Act 33/34 clearances. The City reserves the right to inspect, at any time, all documentation evidencing compliance with this policy.

## **OTHER CRIMES**

Pursuant to the Criminal Record Information Act, 18 Pa.C.S. §9125, applicants for positions within the City may be disqualified from employment based on their criminal history. The act provides that the City may use felony and misdemeanor convictions to disqualify an applicant from employment. However, felony and/or misdemeanor convictions must relate to the applicant’s suitability for employment in the position for which he or she has applied. If the City uses criminal information to disqualify an applicant, the City is required to notify the applicant in writing that the decision not to hire was based in whole or in part on the applicant’s criminal history.

Disqualifications from employment based on this act will be coordinated through the Department of Personnel and Civil Service Commission.