

Kinderhook Memorial Library Pre-employment Background Check Policy

Approved June 20, 2023

The Kinderhook Memorial Library (“Library”) is committed to providing a secure and safe environment for employees and patrons as well as safeguarding the Library’s resources.

To that end, the Library hereby adopts a policy providing for pre-employment background checks on final applicants for paid employment and much more limited for individuals who may voluntarily perform some services as volunteers (collectively referred to as “applicant” or “applicants”), regardless of whether or not a competitive canvassing process is used. The purpose of the investigation is to verify and review information provided by an applicant in order to select the best qualified applicant.

With Respect to Paid Employment: Broad Scope

With respect to *applicants for paid employment*, consent to background checks is deemed a condition of employment for new employees by the Library on and after the effective date of this policy. An offer of employment is contingent upon a review of the results of a background check consistent with this policy as set forth herein.

With Respect to Individuals who Volunteer to Perform Services on behalf of the Library: Limited Scope

With respect to *individuals who volunteer on behalf of the library* (for example, providing services through the Friends of the Kinderhook Memorial Library), such individuals will be required to undergo background checks limited to disclosing only such information directly related to the service such individuals perform on behalf of the library, and only if such background check would disclose information that has a direct relationship to the service such individual will be performing. For example, for individuals volunteering to drive and deliver books on behalf of the library, a driver history check would be required.

With Respect to All Background Checks: Scope of Disclosure and Access to Results

All background checks will be initiated by the designated “Authorized Initiator” who will be either the Library Director or, in when hiring a new Library Director, the Board President. An Authorized Initiator may only initiate a background check after an “Authorization for Background Check” (in the form attached hereto) has been completed and signed by the applicant.

The Library will engage a reputable background check vendor to conduct background checks. Such checks may include, but not be limited to, the following queries:

- Social Security Verification – validates the applicant’s social security number, date of birth and former addresses.
- National Sexual Offender Registry check.
- Nationwide Criminal Database check.
- Driver History check.

The results of each background check will be reviewed by the Authorized Initiator. Results will be compared with information previously provided by the applicant. Applicants may be asked to explain discrepancies, if any are found.

Information gathered as a result of a background check will remain confidential and will be maintained by the Authorized Initiator in a file separate from personnel files and other files otherwise accessible to individuals without the authority to view such information. Results shall only be disclosed to authorized individuals, designated by the Board, who have a need to know such information consistent with their legal duties or job responsibilities. The results of such background check shall not be disclosed to third parties unless otherwise required by law or a court of appropriate jurisdiction.

With Respect to All Background Checks: Open or Unresolved Proceedings and Matters

In accord with the New York Law, the Library does not require any applicant or current employee or volunteer to divulge information pertaining to any arrest or criminal accusation against such person which is not currently pending, or which has been resolved in favor of that individual, resolved by a youthful offender adjudication, or resulted in a sealed conviction. The Library recognizes, however, that it may inquire as to whether an arrest or criminal accusation remains pending.

To that end, the Library may also question a current employee, volunteer or applicant about a pending arrest or accusation, the underlying circumstances of such accusation, the progress of such matter through the criminal justice system and the final disposition. The Library may refuse to hire an applicant or terminate or discipline an employee or volunteer in accordance with applicable law unless and until such matter has been resolved in favor of that individual, resolved by youthful offender adjudication, or resulted in a sealed conviction.

With Respect to All Background Checks: Scope of Review and Determinations Based on Results

If the background check reveals a criminal record or serious misconduct (other than minor traffic violations), the Authorized Initiator will consult with legal counsel or such other individual as the Board may so designate. The Library shall make the final determination whether the results of the background check should disqualify the applicant.

When making such determination, the Library shall consider the following, non-exclusive list of factors:

- Number of offenses and circumstances of each;
- Severity of offense(s);
- Relevance of an offense to the responsibilities of the position (see below);
- Length of time between offense(s) and application for employment;
- Other employment history; and
- Evidence of applicant's rehabilitation efforts and results.

With respect to the "relevance of an offense to the responsibilities of the position," the Library understands that it is unlawful to deny employment, to refuse to hire, to terminate or to take an adverse employment action against an applicant for paid employment or current employee, by reasons of his or her having been convicted of one or more criminal offenses, or because of a belief

that a conviction record indicates a lack of “good moral character” unless there is a direct relationship between one or more of the previous criminal offenses and the specific employment sought or held, or employment of the individual would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In order to determine whether there is either a direct relationship or unreasonable risk, the Library shall consider the following factors set forth in the New York Correction Law (and such other factors as the law, may from time to time include):

- The public policy of New York, as expressed in the Correction Law, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;
- The specific duties and responsibilities necessarily related to the license or employment sought or held by the person;
- The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities;
- The time which has elapsed since the occurrence of the criminal offense or offenses;
- The age of the person at the time of occurrence of the criminal offense or offenses;
- The seriousness of the offense or offenses;
- Any information produced by the person, or produced on the person's behalf, in regard to the person's rehabilitation and good conduct; and
- The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

With Respect to All Background Checks: Adverse Decisions and Failure to Disclose

Applicants will be informed, in writing, of any adverse information discovered in the background check and be provided an opportunity to respond. Upon conclusion of review, written notice regarding the Library’s decision regarding eligibility of employment will be sent to the applicant.

Failure to disclose criminal convictions or any other deemed relevant information during the application process may result in employment disqualification or termination.

Disqualification of an applicant based on information discovered in the background check is not subject to grievance or appeal by the applicant.

Legal references which form the basis for this policy (and the terms of such laws as they may be, from time to time, amended):

- N.Y. Criminal Procedure Law §§160.50, 160.55, 160.58, 220.50
- N.Y. Human Rights Law §296(16)
- Article 23-A of the N.Y. Correction Law

Candidate Waiver

I understand that as a condition of employment or of participation in certain volunteer services with the Kinderhook Memorial Library , candidates must submit to a background check which may be done in the following areas:

- Social Security Verification – validates the applicant’s social security number, date of birth and former addresses.
- National Sexual Offender Registry check
- Nationwide Criminal Database check
- Driver History Check (if applicable)

I hereby submit to such conditions. I understand that refusal to submit to such a background check will result in the termination of processing of my employment application or my offer to perform certain volunteer services.

I understand that any false information, omissions or misrepresentations of facts called for may result in rejection of my application or discharge at any time during employment.

I authorize an agent of Kinderhook Memorial Library to verify this information.

I authorize all former employers, schools, companies and law enforcement authorities to release any information concerning my background and hereby release all such schools, companies and law enforcement authorities from liability for any damage whatsoever for issuing this information.

Name: _____

Signature: _____

Date: _____