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5 U.S. Code § 9202 - Limitations on requests for criminal history record information

U.S. Code Notes

(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—

Except as provided in subsections (b) and (c), an employee of an agency may not request, in oral or written form (including through the Declaration for Federal Employment (Office of Personnel Management Optional Form 306) or any similar successor form, the USAJOBS internet website, or any other electronic means) that an applicant for an appointment to a position in the civil service disclose criminal history record information regarding the applicant before the appointing authority extends a conditional offer to the applicant.

(b) OTHERWISE REQUIRED BY LAW.—

The prohibition under subsection (a) shall not apply with respect to an applicant for a position in the civil service if consideration of criminal history record information prior to a conditional offer with respect to the position is otherwise required by law.

(c) EXCEPTION FOR CERTAIN POSITIONS.—

(1) IN GENERAL.—The prohibition under subsection (a) shall not apply with respect to an applicant for an appointment to a position—

(A) that requires a determination of eligibility described in clause (i), (ii), or (iii) of section 9101(b)(1)(A);

(B) as a Federal law enforcement officer (as defined in section 115(c) of title 18); or

(C) identified by the Director of the Office of Personnel Management in the regulations issued under paragraph (2).

(2) REGULATIONS.—

(A) Issuance.—

The Director of the Office of Personnel Management shall issue regulations identifying additional positions with respect to which the prohibition under subsection (a) shall not apply, giving due consideration to positions that involve interaction with minors, access to sensitive information, or managing financial transactions.

(B) Compliance with civil rights laws.—The regulations issued under subparagraph (A) shall—

(i) be consistent with, and in no way supersede, restrict, or limit the application of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or other relevant Federal civil rights laws; and

(ii) ensure that all hiring activities conducted pursuant to the regulations are conducted in a manner consistent with relevant Federal civil rights laws.

(Added Pub. L. 116–92, div. A, title XI, § 1122(a), Dec. 20, 2019, 133 Stat. 1606.)