

CHAPTER 10

ISSUE 1

Date 07/07/88

SUBJECT: RESPONDING TO REFERENCE INQUIRIES

I. PURPOSE

The purpose of this procedure is to establish guidelines for responding to verbal and written inquiries on former employees and providing other types of potentially confidential information.

II. SCOPE

This procedure is applicable to all City departments. Where any section, subsection, sentence, clause, or phrase of this procedure is found inconsistent with law, statute, or judicial interpretation, the current legal guidelines shall prevail. Exceptions to this procedure shall only be allowed when approved by the City Administrator.

III. AMENDMENTS

This procedure may be amended by the City Administrator.

IV. LEGAL GUIDELINES

The California Labor Code provides for criminal and civil penalties for persons who, after having discharged an employee from service, or after an employee has voluntarily left such service, prevents or attempts to prevent the former employee from obtaining employment by any misrepresentation (Labor Code, Section 1050). However, an employer or an agent, upon special request, is not prevented from providing a truthful statement concerning the reason for the discharge of an employee or why an employee voluntarily left. Statements furnishing information without a special request may be considered a violation of these sections (Labor Code, Section 1053).

Responding to inquiries about former employees may be considered a qualified privileged communication, that is, it is privileged unless it is shown that there was malice, lack of reasonable grounds for believing statements, or statements made for a reason other than to protect the interest of the one for whom the protection is given (Civil Code, Section 47,(3).

V. PROCEDURES

A. Written Requests

All written requests for employee reference information must be forwarded to the Human Resources Department for review and completion. All such requests must contain an authorization from the former employee releasing the information to the requesting agency. The types of information which the Human Resources Department will provide with a properly executed release from the former employee include:

1. Date of hire,
2. Classifications held and dates of appointment,
3. Promotions,

4. Salaries,
5. Description of duties,
6. Attendance records (quantitative information),
7. General type of separation (i.e., resignation, dismissal, layoff),
8. Other information which is determined to be of a factual nature by the Human Resources Department or the City Attorney.

B. Verbal Inquiries

Requests for information on former employees received by telephone or in person should be directed to the Human Resources Department with the exception of the following types of information:

1. Date of hire,
2. Classifications held and dates,
3. Salary ranges (not actual salary),
4. Separation date.

Confidential personal information such as address or last known address, phone, marital status, family information, race/ethnicity may not be provided. Information which may be judged to be based on opinion or of a subjective nature or which could be perceived as slanderous should be strictly avoided.

VI. SPECIAL CONFIDENTIALITY REQUIREMENTS - MEDICAL INFORMATION

Employee medical information including medical examination results, medical conditions, disabilities, and workers' compensation claims shall be afforded strict confidentiality and may only be disclosed under limited circumstances and with appropriate authorization of the employee (California Civil Code, Section 56.20). All requests for medical information should be forwarded to the Human Resources Department for review and response. Authorizations to disclose medical information should contain a specific medical release authorization executed by signature stating the limitations on the types of medical information disclosed, the names or functions of the persons or entities authorized to receive the medical information, limitations on use of the medical information and the dates during which the disclosure is authorized (Reference Civil Code Section 56.21).

VII. INTERPRETATION AND IMPLEMENTATION

Any questions relative to the intent or application of these procedures shall be directed to the Human Resources Officer.

Authorized:

Frank Priore, City Administrator Date