

Introductory Local Law Number 9 Of 2009

County Of Ulster

A Local Law Amending Local Law No. 14 Of 2007 (A Local Law Requiring Criminal Background Checks Of Prospective Applicants For Employment With The County Of Ulster)

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION I. of Local Law No. 14 of 2007 is amended to read as follows:

SECTION I. LEGISLATIVE INTENT AND PURPOSE.

1. This Legislature finds and determines that it would promote the safety of the people of Ulster County and the security of County property to investigate the character of prospective applicants for employment with the County of Ulster by reviewing such applicants' criminal history report.

2. This Legislature further finds and determines that the New York State Division of Criminal Justice Services is capable of conducting fingerprint-based searches of the criminal history reports it maintains but that it requires either statute or local law to grant it authority to conduct fingerprint and criminal history checks. Subdivision 8-a of Section 837 of the New York State Executive Law authorizes the New York State Division of Criminal Justice Services to charge a fee when, pursuant to statute, it conducts a search of its criminal history records and returns a report thereon in connection with an application for employment.

3. This Legislature further finds that the office of the Ulster County Personnel Officer performs the duties of a municipal civil service commission of the County of Ulster pursuant to the terms of Section 15 of the New York State Civil Service Law and Local Law No. 6 of 1978 of the County of Ulster; and the Ulster County Personnel Officer administers civil service law with respect to offices and employment in the classified service of such county pursuant to Section 17 of Civil Service Law; and the Ulster County Personnel Officer, pursuant to section 50 of the New York State Civil Service Law, is directed to ascertain the fitness of applicants for positions in the competitive class of the civil service and may refuse to examine an applicant, or may refuse to certify an eligible, who has been guilty of a crime. In addition, the Ulster County Personnel Officer is responsible for the administration of personnel matters for with respect to offices and employment in the unclassified service of such county.

4. This Legislature finds that the Ulster County Sheriff or his/her deputies or designees have the equipment and expertise to prepare and process fingerprints.

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5. Accordingly, the purpose of this Local Law is to provide authority for fingerprinting and criminal history record checks of prospective employees of the County of Ulster where such authority does not exist by statute or any other state or federal law, the same of which shall be administered by and/or through the office of the Ulster County Personnel Officer with the assistance of the Ulster County Sheriff.

6. This Legislature finds and determines that due to their unique nature, several categories of service at Ulster County Community College would be unduly burdened by the full implementation of this local law. In particular the areas which are burdened are as follows:

(a) The Continuing and Professional Education Department at Ulster County Community College that engages in excess of 200 short-term presenters, lecturers, and instructors over the course of any given year who, despite their short-term service, do not meet NYS Department of Labor criteria to be retained as independent contractors; and

(b) Many of the above-mentioned individuals come from a variety of governmental, corporate, and community programs to share their expertise and enhance the offerings of Continuing Education; many others travel from outside of the region or from out-of-state to offer one or two-day weekend workshops or provide professional training for area businesses, some of whom may teach for three (3) or fewer hours, one time only; and

(c) Up to forty (40) percent of all advertised Continuing Education courses may be cancelled. Ulster County Community College in its credit-bearing program frequently requires a large number of adjunct faculty who teach one or two courses for one semester and may not return again for a full year; and

(d) College Work-study students, whose work at Ulster County Community College is part of their Financial Aid package, Student Aides, and Student Interns, who comprise a significant number each semester,

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all of whom, despite being enrolled students, must also be entered as employees.

SECTION II. of Local Law No. 14 of 2007 is amended to read as follows:

SECTION II. CLASSIFICATIONS OF EMPLOYEES SUBJECT TO FINGERPRINTING AND BACKGROUND CHECKS

1. All prospective employees shall be subject to fingerprinting and background checks who are candidates for the following positions for county service as set forth in the Ulster County Civil Service Rules:

- (a) All positions which are, now or in the future, designated as classified service in the competitive class, non-competitive class, labor class, and exempt class;
- (b) All positions which are, now or in the future, designated as unclassified service except those designated as elected officials, Commissioners of Elections, County Treasurer, District Attorney, Sheriff and County Clerk;

2. *The following categories of staff at Ulster County Community College shall be exempt from the requirement of being fingerprinted and having criminal background checks completed:*

- (a) *Matriculated students who are classified as work-study, student aides, or interns; and*
- (b) *Individuals engaged by Continuing and Professional Education, who are not engaged to offer programs for school aged youth, or engaged in security duties and who do not meet the standards to be compensated as Independent Contractors, and who are providing non-credit course content for 15 or fewer contact hours during any given semester; and*
- (c) *The adjunct faculty, hired to teach credit-bearing or non-credit-bearing courses, whose service at Ulster County Community College, is interrupted for a semester or more, will not be required to be re-fingerprinted and undergo a criminal background check for a three-year period; and*

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(d) The SUNYUlster Dean of Continuing Education shall each semester, certify the application of exemptions made pursuant to the Local Law, in form substantially in conformance with that attached hereto as Exhibit "A".

SECTION III. EFFECTIVE DATE. This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

***Note:** For the purposes of identification, the proposed changes to Local Law No. 14 of 2007, appear in bold italics.