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Municipal & County Budgets: Certifying Compliance with Federal Civil Rights Requirements

[P.L. 2017, c. 183](#), signed into law by Governor Christie on August 7, 2017, amends the Local Budget Law to require municipal and county governing bodies to certify compliance with certain Federal civil rights requirements when submitting their approved budgets with the Division. Specifically, the governing body must certify that their municipality's or county's hiring practices comply with the United States Equal Employment Opportunity Commission's "[Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964](#)," (hereinafter, "EEOC Enforcement Guidance"). A [model group affidavit and resolution](#) can be found on the "Municipal and County Budgets" section of the Division's website under the heading "Sample Resolutions".

EEOC's Enforcement Guidance discusses how an employer's use of criminal history records when deciding whether to select, promote, and retain employees may in some instances violate Title VII's prohibition against employment discrimination on the basis of race or national origin. Policies on the use of criminal history when making personnel decisions may violate Title VII under disparate treatment or disparate impact.

Discrimination on the basis of disparate treatment may occur when an employer treats criminal history information differently for different applicants or employees based on their race or national origin. Disparate impact-based discrimination may occur when an employer's neutral policy (e.g. excluding all applicants from employment based on certain criminal conduct) may disproportionately impact some individuals protected under Title VII and the policy is not job related and consistent with business necessity.

P.L. 2017, c. 183 encourages municipalities and counties to ensure their employment practices follow the EEOC Enforcement Guidance and comply with Title VII. Labor counsel and human resources personnel should review their municipality's or county's employment practices with governing body members and work with their governing bodies to ensure compliance.

With the rollout of the new Financial Automation Submission Tracking (FAST) solution, the group affidavit executed by the governing body along with the adopted resolution shall be kept on file with the municipality or county rather than submitted to the Division. In order to submit the budget, the CFO must certify that the governing body's executed certification is on file and available for inspection.

Approved: Timothy J. Cunningham, Director

Document	Internet Address
P.L. 2017, c.183	http://www.njleg.state.nj.us/2016/Bills/PL17/183_.PDF
EEOC Guidance – Using Criminal History in Making Personnel Decisions	https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm
Model Group Affidavit & Resolution: Compliance with EEOC Enforcement Guidance	http://www.nj.gov/dca/divisions/dlgs/programs/mc_budgets.html