

**CITY OF SANTA ANA
ADMINISTRATIVE
POLICIES AND PROCEDURES**

Robert C. Dahl

City Manager's Authorization
Section

EMPLOYMENT

Subject
PROVIDING INFORMATION ON FORMER EMPLOYEES

Date

5-23-86

APP No.

5

Recently, there has been an increase in litigation based upon information provided to prospective employers. It has always been against City policy to issue any type of defamatory statements. For example, the City Attorney's Office always reviews documents concerning disciplinary matters to ensure that charges are made without malice.

Therefore, to avoid potential liability and, at the same time, to provide uniformity and consistency in adherence to procedures, the following policy has been adopted. All requests for references on former employees should be forwarded to the Human Resources Agency. By transferring all calls to Human Resources, former supervisors' impromptu or spontaneous remarks regarding performance appraisal information can be eliminated. Only the following information will be given:

Classification and department
Start/termination dates
Salary confirmation, if requested

Eligibility for rehire information shall be released if (1) requested in writing and (2) if the former employee has authorized such action through a fully executed release and waiver (see attached). This form shall be kept on file in the employee's personnel folder.

Often employment confirmation is also required by lending institutions for home or auto loans. These requests should be forwarded to the Payroll Account Supervisor to handle in the above-mentioned manner.

MEMORANDUM

TO: The Executive Management Team

FROM: Ed Cooper

SUBJECT: Communications Regarding Former Employees

DATE: January 12, 1995

Information regarding an employee's job performance by an employer to a potential employer is now a legally privileged communication not subject to civil liability. This change was effected by AB 2778, Chapter 364 of the 1994 Statutes, as an amendment to section 47 of the California Civil Code. A communication must meet the following criteria to be privileged:

- it must pertain to the job performance or qualifications of an applicant for employment
- based upon credible evidence
- made without malice
- by a current or former employer of the applicant
- to and upon the request of the prospective employer.

Communications regarding activities related to labor disputes, are exempt from the statute and are still subject to civil liability.

Generally, employees or former employees who sue for defamation when a poor job performance is stated will allege the defamation was made "with malice," whether truthful or not. The City's policy is to verify dates of employment, position held, salary range and, if requested, whether eligible for re-employment. We do not recommend release of any other information without written authorization. The "with malice" allegation is easily made and difficult to overcome without expensive litigation.

MAYOR
Daniel E. Grisct
VICE MAYOR
Lee Johnson
COUNCILMEMBERS
Juan Acosta
Wilson B. Hart
R. W. Luxembourger
Patricia A. McGuigan
Dan Young



CITY OF SANTA ANA

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CITY MANAGER
Robert C. Bobb
CITY ATTORNEY
Edward J. Cooper
CLERK OF THE COUNCIL
Janice C. Guy

RELEASE AND WAIVER

To City of Santa Ana Personnel Services Department:

I hereby authorize the City of Santa Ana Personnel Services Department to release upon written request information as to my eligibility for rehire with the City of Santa Ana. Such information may be released for a period of five years following the date of this release unless this authorization is terminated in writing.

This release is executed with full knowledge and understanding that the information may be furnished to prospective employers among others. I further release the City of Santa Ana, its officers and employees, from any and all liability whatsoever for damage of whatever kind, which may at anytime result to me because of compliance with this request.

Executed at Santa Ana California.

Date: _____ NAME: _____
(please print)

Current address: _____

Telephone: _____

Signature

Witness: _____