

**CITY OF SAN JOSE
DEPARTMENT OF PARKS, RECREATION
& NEIGHBORHOOD SERVICES (PRNS)**

Guest Speaker Application

The department seeks to provide informational workshops to the community audience from time to time. To provide this service, PRNS is looking for experts on topics to supplement PRNS's services and program offerings in the Community Centers, which will further PRNS's mission and programs.

Guest Speaker Eligibility Criteria	
<ul style="list-style-type: none">• Eligible Guest Speaker	<ul style="list-style-type: none">• Nonprofit or education organization;• Government agency
<ul style="list-style-type: none">• Required Documentation	<ul style="list-style-type: none">• Proof of 501c3 status;• Current City of San José Business license or exemption;• Active status with the California Secretary of State

City is seeking Guest Speakers to provide educational presentations supplementing the PRNS's mission and PRNS programs and services. PRNS's mission is as follows: To build healthy communities through people, parks and programs.

Examples of City programs are as follows: Youth centers, after school programs, therapeutic programs, senior services, sports leagues and summer camps.

The PRNS Director will determine the times, locations and subject matters that are most advantageous to supplement PRNS's programs and services. However, the City has limited resources and the City may decide not to select a speaker in City reasonable judgment.

- A. Any speaker selected by City agrees that the educational presentations will serve the sole purpose of providing information beneficial to the audience and is not provided for any commercial purpose;
- B. Filling out this form does not provide any assurance of selection for a presentation;
- C. All handouts provided by a Guest Speaker must be approved by the City prior to delivery of presentations;
- D. Guest Speaker has been selected to provide expert advice to the community. Guest Speaker assures City that the speaker provided to the City has the qualifications, experience and expertise necessary to provide information on the subject matter and that the resume, background information and other qualifications provided to City are current and accurate.
- E. Selection of Guest Speaker is not an endorsement of guest speaker by City. Guest Speakers are responsible for providing accurate information during the presentation.;

- F. Guest Speaker shall not touch any community members nor engage in any other personal contact of community members (as in massage) nor engage in any invasive procedures (such as finger stick);
- G. Guest speaker understands that presentations may be in the form of a panel to provide varying perspectives on an issue;
- H. Guest Speakers shall allow time during the presentation for participant questions;
- I. The names of participants for a presentation are personal information and shall be for City use only. Guest Speaker agrees that he or she shall not solicit nor request a list of participants;
- J. Guest speakers shall not collect any fees or monetary gifts from presentation participants;
- K. Access to the City's community center is provided without cost to guest speaker and is therefore partially subsidized by City.
- L. Guest speaker may not use the presentation opportunity to promote or denigrate any religion nor to engage in political advocacy. However, nothing herein limits guest speaker from engaging in free speech activity at times other than while making an educational presentation on behalf of the City pursuant to this Guest Speaker program;
- M. Guest Speaker understands that City reserves the right to observe and monitor Guest Speaker presentations.
- N. If Guest Speaker is a non-profit organization, Guest Speaker shall protect, defend, indemnify and hold harmless CITY, its officers, employees and agents against any action, demand, claim, loss or liability arising out of or resulting in any way from this Agreement or any actions taken, work performed or service provided under this Agreement. Guest Speaker's obligations to indemnify and hold harmless exclude only such action, demand, claim, loss or liability which is due to the sole negligence or willful misconduct of CITY and/or its employees. All of Guest Speaker's obligations under this Section are intended to apply to the fullest extent permitted by law and shall survive the expiration, completion or sooner termination of this Agreement. In any action or claim against CITY in which Guest Speaker is defending CITY, CITY shall have the right to approve legal counsel providing CITY's defense.
- O. If Guest Speaker is a Government Agency, In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code section 895.6, the Parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the Guest Speaker and CITY agree that pursuant to the Government Code section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful

misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Application. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Application.

- P. Under no circumstances shall this Application be construed as one of agency, partnership, joint venture or employment between the City and Guest Speaker. Each party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other party in any way except as specifically provided in this application.
- Q. If Guest Speaker will be providing presentations to an audience containing minors, Guest Speaker shall follow the procedures contained in **EXHIBIT A** attached hereto. In the event the Guest Speaker chooses a different national criminal database for complying with the FBI requirement for background checks, then such alternative database shall be subject to the CITY'S prior written approval.
- R. **A violation of any of the above may result in City removing Guest Speaker from the list of speakers, and immediate termination of any Presentation(s) made by a Guest Speaker in violation of the guidelines set forth herein.**

Guest Speaker Information

Government Agency Non-profit organization

Name of Agency _____

Contact Person: _____ Phone: _____

Address: _____ City: _____ Zip: _____

Email: _____

Scope of Presentation

Term of this Application	From:	To:
Presentation Topic:		
Description of Presentation:		
Name(s), experience and qualification of Guest Speaker(s):		
Suggested Location(s) of Presentation:		
Available dates for Presentations:		
Suggested Duration of each Presentation:		

Required Attachments:

Proof of non-profit status
 City of San José Business License or exemption
 Materials for distribution
 Signed EXHIBIT A if presenting to minors

Agency Authorized Representative _____
Signature Date

APPROVED _____
Recreation Superintendent/Therapeutics Manager Date

APPROVED _____
Deputy Director Date

EXHIBIT A

EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH THE CHILD ABUSE AND NEGLECT REPORTING ACT

If Guest Speaker provides presentations to an audience containing minors, and as a CITY-approved method of complying with the provisions contained in this Application, Guest Speaker shall conduct a criminal background check through the database of the California Department of Justice and an FBI criminal database or equivalent national database as approved in writing by Guest Speaker's liability insurance provider, on each of its employees and volunteers who have supervisory or disciplinary authority over minors.

Guest Speaker shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code SECTION 11164 *et. seq.* Additionally, Guest Speaker certifies the following:

1. Any and all personnel employed or retained by Guest Speaker in conducting the operations of Guest Speakers shall be qualified to perform the duties assigned to them by Guest Speaker. Guest Speaker agrees that Guest Speaker shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code SECTION 5164. (Copy attached.)

CITY and Guest Speaker understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If Guest Speaker intends to have employees or volunteers under the age of 18 providing presentations under this Application, Guest Speaker must obtain CITY'S prior consent, and Guest Speaker shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code SECTION 5164.

2. Guest Speaker shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by Guest Speaker, shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this Application, and the person meets the standards set forth above. If requested by CITY, and to the extent allowed by law, Guest Speaker shall promptly provide documentation listing each person that has provided or is providing services hereunder involving supervision or disciplinary authority over minors, and certifying that the Guest Speaker has conducted the proper background check on such person or persons, and each of the named persons is legally permitted to perform the services described in this Application. Regardless of whether such documentation is requested or

delivered by Guest Speaker, Guest Speaker shall be solely responsible for compliance with the provisions of this ATTACHMENT.

3. That no person paid or unpaid by Guest Speaker shall be permitted to provide presentations requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless Guest Speaker has complied with the TB testing requirements set forth in SECTION 5163 of the California Public Resources Code (copy attached), verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current employee) of the date of execution of this Application and every four (4) years thereafter, if the term of this APPLICATION exceeds four (4) years.

For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. Guest Speaker shall keep on file each "Certificate" of clearance for the persons described above, and shall also make available a copy of each Certificate to CITY, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

I, the Guest Speaker, by signing below verify that I have read and agree to the above:

Signature/Title

Date

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

5164. (a) (1) A county or CITY or CITY and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or CITY or CITY and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (2).

(2) (A) Violations or attempted violations of SECTION 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or any sex offense listed in SECTION 290 of the Penal Code, except for the offense specified in subdivision (d) of SECTION 243.4 of the Penal Code.

(B) Any felony or misdemeanor conviction specified in subparagraph(C) within ten (10) years of the date of the employer's request.

(C) Any felony conviction that is over ten (10) years old, if the subject of the request was incarcerated within ten (10) years of the employer's request, for a violation or attempted violation of any of the offenses specified in Chapter 3 (commencing with SECTION 207) of Title 8 of Part 1 of the Penal Code, SECTION 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of SECTION 12022 of the Penal Code, in the commission of that offense, SECTION 217.1 of the Penal Code, SECTION 236 of the Penal Code, any of the offenses specified in Chapter 9 (commencing with SECTION 240) of Title 8 of Part 1 of the Penal Code, or any of the offenses specified in subdivision (c) of SECTION 667.5 of the Penal Code, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three (3) or more misdemeanor convictions, or a combined total of three (3) or more misdemeanor and felony convictions, for violations listed in this SECTION within the ten (10) year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding ten (10) years.

(b) (1) To give effect to this SECTION, a county or CITY or CITY and county or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a). The county or CITY or CITY and county or special district shall screen, pursuant to SECTION 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background.

(2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5163

5163. (a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a CITY or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the CITY or county a certificate showing that within the last two (2) years the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four (4) years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within thirty (30) days of the examination to the local health officer to determine the need for follow-up care.

"Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with SECTION 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

5163.1. The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

Nothing in SECTIONS 5163 to 5163.2, inclusive, shall prevent the governing body of any CITY or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by SECTION 5163 and this SECTION.

5163.2. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a licensed physician and surgeon.

5163.3. The CITY or county shall maintain a file containing an up-to-date certificate for each person covered by SECTION 5163.

5163.4. Nothing in SECTIONS 5163 to 5163.3, inclusive, shall prevent the CITY or county from requiring more extensive or more frequent examinations.