

Fair Chance Ordinance Employer Tool Kit – Video 2 Initiating a Background Check After a Conditional Job Offer

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How to get the most out of this video

- Have you watched the FCO Overview Video?
- This is a video in a series. Watch the videos in order.
- Print the presentation slides and have them available to take notes as you watch this video.
- Print the FCO Employer Tool Kit https://sfgov.org/olse/fair-chance-ordinance-fco

San Francisco Fair Chance Ordinance (FCO) Compliant Employment Process

Job Posting, Application, & Interview

- Must state that you will consider qualified applicants with arrest & conviction records for employment in compliance with the FCO.
- Can't ask about arrests or convictions.

Hire/Promote

May Conduct Background Check After a Conditional Job Offer (Optional)

- Conduct individualized assessment Hire?
- Preliminary notice to revoke job offer.
- Reassessment if new information provided Hire?

Revocation of Job Offer

Final notice to revoke job offer.

Initiating a Background Check

After a conditional offer of employment has been made, the employer may conduct a background check.

To make a conditional job offer provide:

- Letter
- Authorization Form
- Fair Chance Ordinance Notice

Employees with 20+ Employees Must Post This Notice for Applicants and Employees
CITY AND COUNTY OF SAN FRANCISCO
EDWIS MLEE MAYOR

OFFICIAL NOTICE TO JOB APPLICANTS AND EMPLOYEES

Fair Chance Ordinance

Police Code, Article 49

Starting August 13, 2014, the Pair Chance Ordinance (San Francisco Pelice Code, Article 49) empaires employers to fallow ratice rules regarding the use of arrest and correlates records in history employerent decisions. The ordinance covers job application and employers who would be or an performing work in whole, or in substantial part, in San Francisco and applice to employers who have 20 or more analysis or controlles of the condevers. To continue.

Certain matters are off-fault. An employer may mere the short, require disclosure of, or consider, an arrari not leading to a considere (what has an annealed near that is still antagoping orisinal in workingtion or trial), participation in a diversition of confident of pingament program, a conviction that has been expanged or made inseparative, any detarmination is in the juricely justice as governed no most than 7 years old; and a criminal officers other than a follow, inisdementary. Mattern that we off-family council be used by the employer for any reason an any stage of the latting position.

An employer cannot ask about an individual's conviction history or unresolved arrests at the start of the hiring process. This isolodes through a job application form, informal convenation, or otherwise.

A mandatory interactive process for matters not off filents, Only offer allow inter-fore has been conclused, or a conditional offer of conference made, in the conjugacy allowed to said a best as individually conviction history (cought as to matters that are off-limits) and super-had arrests. Only those convictions and insociously assets that divertly relative to the individually ability to do the jointury be considered in making an employment decision.

Before the employer may take an adverse extion such as failing refusing to bire, discharging, or not grounding as ladd-deall based on a correction latenty or manufacted amount, the critique or many the facility data as opportunity to present evidence that the information is innecessar, the individual has been relabilitated, or other multiparting factors. The individual has sown days to respond, at which point the complete manufacture and data are always anderson extion for a reasonable time and reconsider the adverse extion. The employer mant notify the individual of case fluid adverse action.

Anthron of retabilitative include satisfying parcel probation, receiving officialises that impropriet and an absolution of the satisfies of th

Prevengtion. Where federal or state law imposes a criminal history requirement that conflicts with a requirement of the Pair Chance Ordinance, the federal or state law will apply.

No Braillation. An employee may not take an adverse uption against an applicant or employee for convolving their rights under the redistance on cooperating with the Office of Lade Standards Extensions (CLSS). If you need more information, or wish to appear an employee that you believe has violated this ordinance, please contact the OLSE at 415-94-950 or man ad CDESSAGEROOM.

Employees must post this notice in English, Spanish, Chinaca, and any language upsion by at least 5% of the employees at the workplace, job size, or other location at which it is posted. For copies of this notice in Spanish, Chinaca, Filipino, Victomaca, and Romina vind www.xfprc.orp/des/Epo or call (415) 554-5192.



Conditional Offer of Employment

1 of 3

1. Clarify that a job offer is contingent of the background report findings.

Conditional Offer of Employment

2 of 3

2. List the 7 categories that may not be considered from the background report.

The FCO prohibits covered employers from ever considering the following:

- An arrest not leading to a conviction, except for unresolved arrests.
- Participation in a diversion or deferral of judgment program.
- A conviction that has been dismissed, expunged, otherwise invalidated, or inoperative.
- A conviction in the juvenile justice system.
- An offense other than a felony or misdemeanor, such as an infraction.
- A conviction that is more than 7 years old (unless the position being considered supervises minors or dependent adults).
- A conviction for decriminalized conduct, including the non-commercial use and cultivation of cannabis.

Conditional Offer of Employment Criteria

3. Clarify for the applicant that if the background report leads to revoking the job offer, the applicant will have at least 7 business days to submit the following:

a) Inaccuracies with the background findings

b) Information about rehabilitation or mitigating circumstances

Sample Conditional Offer of Employment & Notice of Conviction Background Check San Francisco Fair Chance Ordinance

[Date]

Dear [Applicant Name]:

We are writing to make you a conditional offer of employment for the position of [INSERT POSITION]. Before this job offer becomes final, we will check your conviction history. The form attached to this letter asks for your permission to check your conviction history and provides more information about that background check.

After reviewing your conviction history report, we will either:

- a. Notify you that this conditional job offer has become final; or
- b. Notify you in writing that we intend to revoke (take back) this job offer because of your conviction history.

As required by the San Francisco Fair Chance Ordinance, we will NOT consider any of the following information:

- An arrest not leading to a conviction—except under specific circumstances identified below with respect to an unresolved arrest;
- Participation in, or completion of, a diversion or a deferral of judgment program;
- A conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise made inoperative;
- A conviction or any other determination in the juvenile justice system, or information regarding a matter considered in, or processed through, the juvenile justice system;
- A conviction that is more than 7 years old (measured from the date of sentencing); or
- A criminal offense other than a felony or a misdemeanor—such as an infraction.

As required by the San Francisco Fair Chance Ordinance, we will consider whether your conviction history is directly related to the duties of the job we have offered you.

We will consider all of the following:

- The nature and seriousness of the offense
- The amount of time since the offense
- The nature of the job

We will notify you in writing if we plan to revoke this job offer after reviewing your conviction history. You will have an opportunity to respond before our decision becomes final. We will identify conviction(s) that concern us, give you a copy of the background check report, and allow you at least 7 business days to respond with information showing the conviction history report is inaccurate and/or with information about your rehabilitation or mitigating circumstances. We will review any information you timely submit and then decide whether to finalize or take back this conditional job offer. We will notify you of that decision in writing.

Sincerely,

[Employer]

Enclosures: Authorization for Background Check (as required by the U.S. Fair Credit Reporting Act and California Investigative Consumer Reporting Agencies Act), San Francisco Fair Chance Ordinance Notice

Background Check Review

Are there issues with the background report that leads to revoking the job offer?

- No You may continue with the hiring process
- Yes Take the required steps to comply with the FCO

No automatic rejections



Continue to Employer Tool Kit – Video 3 After the Background Report, Individualized Assessment and Reassessment Process



Contact OLSE

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FCO

https://sfgov.org/olse/fair-chance-ordinance-fco

