



Know Your Rights: Employment Background Checks

Know your rights under the San Francisco Fair Chance Ordinance

- ✓ **The Fair Chance Ordinance (FCO):**
 - Regulates San Francisco employers' and City contractors' use of arrest and conviction records in employment
 - Prohibits San Francisco employers and City contractors from issuing job ads and solicitations stating that persons with arrests or convictions may not apply or will not be considered for employment
- ✓ **Employers cannot ask about arrest or conviction records on a job application.**
- ✓ **Under FCO, an employer cannot consider 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
 - A conviction that is more than 7 years old
 - An offense other than a felony or misdemeanor, such as an infraction.
- ✓ **An Employer cannot conduct a background check until after a live interview**
- ✓ **When an Employer conducts an employment background check, the Employer must:**
 - Provide the applicant or employee with a copy of OLSE's FCO Official Notice before asking about conviction history or unresolved arrests
 - Conduct an individual assessment if using an unresolved arrest or conviction history for an employment decision
 - Give the applicant or employee 7 days to explain or correct an unresolved arrest or conviction history, and provide any evidence of rehabilitation or mitigating factors
 - Delay any adverse action and reconsider the action if the applicant or employee provides evidence of rehabilitation, mitigating circumstances, or inaccuracies in the report
 - Inform the applicant or employee if he/she decides to take an adverse action based on the applicant or employee's unresolved arrest or conviction history
- ✓ **Some things to keep in mind with this law:**
 - FCO does **NOT** require employers to give preference to, or hire an unqualified individual with an arrest or conviction record
 - FCO does **NOT** limit employers' ability to choose the most qualified and appropriate candidate among the applicants
 - FCO does **NOT** require employers to conduct a background check

**For more information or to file a complaint contact the
San Francisco Office of Labor Standards Enforcement (OLSE) at:
Hotline: 415-554-5192 Email: FCE@sfgov.org**