



City & County of San Francisco Fair Chance Ordinance

Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.

The Fair Chance Ordinance (FCO) regulates when and how San Francisco employers and City contractors may ask about and use arrest and conviction records in hiring decisions. As of October 1, 2018, all employers with 5 or more employees worldwide, and City contractors of any size, must observe the following restrictions:

- An employer **MAY NOT** ask about arrests or convictions on a job application.
- Only **AFTER** a conditional offer of employment may an employer conduct a background check, or inquire about convictions or unresolved arrests.
- After making a conditional offer of employment, an employer may consider only convictions that are directly related to the job, but may **NEVER** consider any of 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 or expunged;
 - A conviction in the juvenile justice system;
 - A conviction that is more than 7 years old (unless the position supervises or provides services to minors, seniors, or dependent adults);
 - Infractions (except driving record infractions when driving is part of the job); or
 - A conviction for decriminalized conduct, including the non-commercial use and cultivation of cannabis.
- Before taking any adverse action, such as not hiring an applicant because of a conviction, the employer must:
 - Notify the applicant or employee and provide a copy of the background check, if any;
 - Give the applicant or employee 7 days to respond with evidence of inaccuracies on the background check or evidence of rehabilitation or other mitigating factors.*
 - Reconsider the action based on evidence the applicant or employee provides.

* **Evidence of rehabilitation** includes satisfying terms of parole or probation, education or training, participating in alcohol or drug treatment programs, letters of recommendation; and age at which the individual was convicted. Mitigating factors are things that contributed to the conviction, such as coercive conditions, physical or emotional abuse, and untreated substance abuse or mental illness.

Preemption. Where federal or state law imposes a criminal history requirement that conflicts with the FCO, the federal or state law will apply.

No Retaliation. An employer may not take an adverse action against an applicant or employee for exercising their rights under the FCO or cooperating with the Office of Labor Standards Enforcement.

Notice Requirement: Employers must provide this notice to applicants and employees prior to conducting a background check, and must post this notice in English, Spanish, Chinese, and any other language spoken by at least 5% of the employees at the workplace or job site.

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

10/1/2018