

## Overview SAN FRANCISCO FAIR CHANCE ORDINANCE

As of August 13, 2014, the Fair Chance Ordinance requires employers to follow strict rules regarding applicants' and employees' arrest and conviction record(s) and related information. The Ordinance covers employees who perform work (in whole or in substantial part) in the City and County of San Francisco, whose employers are located or doing business in the City; and have 20 or more employees (total worldwide).

This Ordinance covers any vocation, job, or work, including temporary, seasonal, part-time, contract, contingent, and commission-based work. It also covers work performed through the services of a temporary or other employment agency, and any form of vocational or educational training—with or without pay.

**The Fair Chance Ordinance (FCO) prohibits covered employers from asking about arrest or conviction records on a job application.**

**The FCO also 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*).

**In addition, the Ordinance requires covered employers to:**

- State in all job solicitations/ads that qualified applicants with arrest and conviction records will be considered for the position in accordance with this ordinance. Suggested language: "Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records.").
- Conspicuously post the Official FCO Notice in every workplace/jobsite under the employer's control.
- Before taking adverse action such as failing/refusing to hire, discharging, or not promoting an individual based on a conviction history or unresolved arrest, give the individual an opportunity to present evidence that the information is inaccurate, the individual has been rehabilitated, or other mitigating factors (following procedures outlined in [Police Code Section 4909](#) or Administrative Code [Section 12T.4](#)).
- Maintain and retain accurate records of employment, application forms, and other pertinent data for 3 years.
- Allow the OLSE reasonable access to these records for monitoring and compliance purposes.
- Provide yearly compliance reports to the OLSE.

Employers may not take an adverse action against an applicant or employee (such as failing /refusing to hire, discharging, or not promoting the individual) for exercising their rights under the ordinance or cooperating with the OLSE.

- **Where federal or state law imposes a criminal history requirement that conflicts with a requirement of the Fair Chance Ordinance, the federal or state law will apply.**
- The 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.