

KNOW YOUR LEGAL RIGHTS: JOBS & SAN FRANCISCO'S FAIR CHANCE ORDINANCE

Wondering what you are required to report on job applications?

Fired from a job because of your criminal record?

Visit Lawyers' Committee for Civil Rights' Second Chance Legal Clinic.

Call 415.814.7610 to sign up.

Leave a message and we will return your call within 1–2 business days.

Clinics are held twice per month in San Francisco.

CONTACT US

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The laws below apply to all private employers in San Francisco with 20 or more employees:

1. JOB LISTINGS/POSTINGS/ADVERTISEMENTS:

- **CANNOT** include any blanket bans or exclusions against applicants with convictions or arrests (example: statements such as “No felons will be considered” are prohibited).

2. JOB APPLICATIONS:

- **CANNOT** ask if you have ever been convicted or arrested.

3. DURING YOUR FIRST LIVE INTERVIEW:

Private employers **CANNOT** ask if you have ever been convicted or arrested.

4. AFTER YOUR FIRST LIVE INTERVIEW OR A CONDITIONAL OFFER OF EMPLOYMENT:

- Private employers **CAN** ask about the following, within the limits in #5 (below):
 - Convictions within the past 7 years, measured from the date of sentencing; and
 - Open or “unresolved” arrests.
- Private employers **CANNOT ever ask about or consider**: (1) arrests not leading to a conviction, (2) diversion/deferral programs, (3) “expunged” or dismissed convictions, (4) juvenile cases, (5) convictions older than 7 years, or (6) infractions. **Employers CAN NEVER ask about these cases or use them against you at any stage of the process!**

5. IF A PRIVATE EMPLOYER ASKS ABOUT CONVICTIONS WITHIN THE PAST 7 YEARS OR OPEN ARRESTS, AND THEY ASK AFTER A LIVE INTERVIEW OR CONDITIONAL OFFER, THE EMPLOYER MUST DO THE FOLLOWING:

- **Provide notice of your rights** under the Fair Chance Ordinance.
- **Provide notice of any background check.**
- **Conduct an “individualized assessment” of your application**, meaning they must consider: (1) whether your conviction or arrest directly relates to the job, (2) the time since the conviction or arrest, and (3) any evidence of rehabilitation, inaccuracy, or other mitigating factors such as completion of probation/parole, recommendation letters, and education or training.

6. IF A PRIVATE EMPLOYER WANTS TO DENY YOU BASED ON CONVICTIONS WITHIN THE PAST 7 YEARS OR OPEN ARRESTS, THE EMPLOYER MUST DO THE FOLLOWING:

- **Give you a copy of your background check**, if one was obtained.
- **Explain why they want to deny you.**
- **Allow you to provide evidence** of errors within 7 days on the background check or of rehabilitation. They must consider this additional evidence **before** making a final decision.

7. IF YOU BELIEVE YOUR EMPLOYMENT RIGHTS UNDER THE FAIR CHANCE LAW HAVE BEEN VIOLATED:

- You may report the violation to the Office of Labor Standards Enforcement within 60 days. Contact info: 415-554-5192 or FCE@sfgov.org

Call the Lawyers' Committee for Civil Rights for help with enforcing your rights: 415-814-7610

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The laws below apply to all affordable housing providers¹ in San Francisco:

1. ADVERTISEMENTS FOR AFFORDABLE HOUSING:

- **CANNOT** contain a blanket ban on applicants with convictions or arrests (example: statements such as “No felons will be considered” are prohibited).

2. APPLICATIONS FOR AFFORDABLE HOUSING:

- **CANNOT** ask if you have ever been convicted or arrested.

3. AFTER DETERMINING THAT YOU ARE QUALIFIED TO RENT:

- Affordable housing providers **CAN** ask about the following, within the limits in #4 (below):
 - Convictions within the past 7 years, measured from sentencing date; and
 - Open or pending arrests.
- Affordable housing providers **CANNOT ever ask about or consider:** (1) arrests not leading to a conviction, (2) diversion/deferral programs, (3) “expunged” or dismissed convictions, (4) juvenile cases, (5) convictions older than 7 years, or (6) infractions. **Affordable housing providers cannot ask about these cases or use them against you at any stage of the process!**

4. IF AN AFFORDABLE HOUSING PROVIDER ASKS ABOUT CONVICTIONS WITHIN THE PAST 7 YEARS OR OPEN ARRESTS, AND THEY HAVE ALREADY DETERMINED THAT YOU ARE OTHERWISE QUALIFIED TO RENT, THE HOUSING PROVIDER MUST DO THE FOLLOWING:

- **Provide notice of your rights** under the Fair Chance Ordinance.
- **Provide notice of any background check.**
- **Conduct an “individualized assessment”** of your application, meaning that they must consider: (1) whether your conviction or arrest directly relates to the housing, (2) the amount of time passed since the conviction or arrest, and (3) any evidence of rehabilitation, inaccuracy, or other mitigating factors such as completion of probation/parole, recommendation letters, and education or training.

5. IF AN AFFORDABLE HOUSING PROVIDER WANTS TO DENY YOU BASED ON CONVICTIONS WITHIN THE PAST 7 YEARS OR OPEN ARRESTS, THE HOUSING PROVIDER MUST DO THE FOLLOWING:

- **Provide a copy of your background check**, if one was obtained.
- **Explain why they want to deny you.**
- **Allow you to provide evidence** within 14 days, of errors on the background check or of rehabilitation. They must consider this additional evidence **before** making a final decision.

6. IF YOU BELIEVE THAT YOUR HOUSING RIGHTS UNDER THE FAIR CHANCE LAW HAVE BEEN VIOLATED:

- You may report the violation to the Human Rights Commission within 60 days. Contact info: 415-252-2500 or hrc.info@sfgov.org

¹ Affordable housing includes any residential building in the City that has received funding from the City connected in whole or in part to restricting rents, as well as “affordable units” as defined in Article 4 of the SF Planning Code.

Call the Lawyers' Committee for Civil Rights for help with enforcing your rights: 415-814-7610