

LA COUNTY FAIR CHANCE ORDINANCE FOR EMPLOYERS FREQUENTLY ASKED QUESTIONS



FOR MORE INFORMATION
EMAIL FAIRCHANCE@DCBA.LACOUNTY.GOV
CALL (800) 593-8222
OR VISIT WORKERS.LACOUNTY.GOV

1. What is the Fair Chance Ordinance for Employers?

The Fair Chance Ordinance for Employers aims to ensure fair and equitable access to opportunities for employment for individuals with a criminal history. It bans discriminatory language like "No Felons" or "Must Have Clean Background" in job postings. Employers are generally prohibited from asking an applicant about their criminal history before a conditional job offer is made. Also, employers are prohibited from reviewing or considering criminal history older than seven years, with limited exceptions. Finally, an employer must engage in a Fair Chance process with an applicant or employee before making a final decision to take an adverse action, including, withdrawal of job offer, denial of a promotion, or termination of employment that is based on criminal history. (See Fair Chance Process Question #5 for more information)

2. What employers are covered under the Ordinance?

The Fair Chance Ordinance for Employers applies to any employer that employs five (5) or more employees who perform or whose positions will involve performing an average of at least two (2) hours of work per week in the unincorporated areas of Los Angeles County.

3. Are there exceptions for Employers that are legally required to conduct background checks?

Yes. Certain requirements under the ordinance, including those relating to job postings and prohibited inquiries before a conditional job offer is made do not apply to job positions where an employer is required by any state, federal, or local law or regulation to conduct criminal background checks or inquire regarding criminal history. However, all employers must still comply with the requirements in the Ordinance involving individualized assessments and notices of adverse action.

4. What are the unincorporated areas of Los Angeles County?

The unincorporated areas of Los Angeles County are regions within the county that are not governed by a specific city or municipality. Instead, they are governed by the Los Angeles County Board of Supervisors. Visit <https://lacounty.gov/muas> to determine whether a workplace or jobsite is located in the unincorporated area.



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5. What is the Fair Chance Process in the Ordinance?

Before an employer takes an adverse action, such as refusing to hire, rescinding a job offer, denying a promotion or discharging an employee due to criminal history, the employer must engage in a Fair Chance process with the applicant or employee. This includes conducting an individualized assessment of the person's criminal history before making any final decision, as well as giving the applicant or employee the opportunity to present evidence that the criminal history information is inaccurate or that the individual has been rehabilitated or there are other mitigating factors to consider.

Application Process (Ban-the-Box)	Employers are prohibited from asking applicants about their criminal history before making a conditional job offer, with limited exceptions.
Initial Individualized Assessment	Before taking an adverse action, such as withdrawing a job offer, denying a promotion, or firing an employee, the employer must conduct a written individualized assessment of whether the applicant or employee's criminal history has a direct, adverse and negative bearing on the person's ability to perform the duties of the job position.
Preliminary Notice of Adverse Action	If after conducting the Initial Individualized Assessment, the employer intends to withdraw a conditional job offer or take any other adverse action, the employer must provide the applicant or employee with a Preliminary Notice of Adverse Action, which must also contain a copy of the Initial Individualized Assessment, and a copy of the criminal history report.
Applicant or Employee's Response	An applicant or employee will have at least 5 business days to respond to the Preliminary Notice of Adverse Action before the employer can make a final decision. An employer will provide the applicant or employee an additional 10 business days to respond if they make a written request for additional time during the initial 5-day waiting period. An applicant or employee can respond by including evidence of errors on the criminal background check and/or by submitting evidence of rehabilitation or mitigating circumstances regarding their criminal history.
Second Individualized Assessment	Upon receipt of the applicant or employee's response, the employer must conduct a written Second Individualized Assessment, to consider whether the individual's criminal history has a direct, adverse and negative bearing on that person's ability to perform the duties of the job, by fully considering the information or documents provided by the applicant or employee in their response.
Final Notice of Adverse Action	If the employer makes a final decision to withdraw a job offer or take any other adverse action, the employer must provide the applicant or employee with a Final Notice of Adverse Action, a copy of the Second Individualized Assessment, and information on the right to file a complaint with the Los Angeles County Department of Consumer & Business Affairs Office of Labor Equity for any alleged violation of the Ordinance and with the State for any alleged violation of the Fair Chance Act.



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6. What is an Individualized Assessment?

Prior to taking an adverse action against an applicant or employee, an employer must conduct a written individualized assessment of whether a person's criminal history has direct, adverse and negative bearing on the person's ability to perform the duties of the job position, such that it justifies taking the adverse action. This Ordinance requires that an employer conduct an Initial Individualized Assessment before sending an individual a Preliminary Notice of Adverse Action, and if the individual provides a response to that notice, the employer must conduct a Second Individualized Assessment, in which the employer will again assess whether the applicant or employee's criminal history has direct, adverse and negative bearing on the person's ability to perform the duties of the job position, in light of the information or documents submitted by the applicant or employee in their response.

An individualized assessment must include at a minimum, consideration of the following factors:

- a. The nature and gravity of the offense or conduct, including but not limited to, consideration of whether the harm was to property or people, the degree or severity of the harm or offense, the age of the person when the conduct occurred, and the permanence of the harm or offense.
- b. The time that has passed since the offense or conduct and/or completion of the sentence.
- c. The nature of the job position sought or held, including consideration of the specific duties of the job, whether the position offers the opportunity for the same or a similar offense to occur, and whether circumstances leading to the conduct for which the person was convicted or that is the subject of an unresolved arrest will recur in the position; and
- d. Any evidence of rehabilitation or mitigating circumstances that the applicant or employee voluntarily provides to the employer.

7. What is an Adverse Action?

An adverse action is an employer's action or decision that materially and adversely affects the terms, conditions, or privileges of employment of an applicant or employee. This includes actions such as withdrawing a job offer, denying a promotion, or firing an employee due to their criminal history.



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8. How long do I have to file a complaint for a violation of the Ordinance?

Applicants or employees may file a complaint with the Department of Consumer and Business Affairs - Office of Labor Equity (DCBA-OLE), within one year of an employer's alleged violation.

9. What can I do if I suspect an employer has violated the Ordinance?

File a complaint. To report a violation of the Fair Chance Ordinance for Employers, you can file a complaint by contacting us at (800) 593-8222, visiting us at workers.lacounty.gov or emailing us at FairChance@dcba.lacounty.gov.

10. Can I sue an employer in civil court for a violation of the Ordinance instead of filing an administrative complaint with the DCBA-OLE?

Your Right to File a Lawsuit: An applicant or employee has the option to forgo filing an administrative complaint with the DCBA-OLE and can instead bring a civil lawsuit against an employer for violation of the Ordinance, by filing an intent-to-sue notice with DCBA-OLE.

