

SAMPLE PRELIMINARY NOTICE OF ADVERSE ACTION

This is a sample only. It is intended as general information only and is not intended to bind the County of Los Angeles in any enforcement action. The Office of Labor Equity (OLE) is providing this information as a public service.

[DATE]

[Employer Contact Info]

RE: Preliminary Notice of Adverse Action

Dear [APPLICANT/EMPLOYEE NAME],

After reviewing the results of your criminal background check, we have made a **preliminary** (non-final) decision to take the following action:

[Identify the preliminary decision for adverse action, *i.e.*, withdrawal of conditional job offer, denial of promotion, discharge, transfer or discipline. Example: "We intend to withdraw our conditional job offer for the position of [JOB POSITION]"; or, "We intend to deny your promotion to the position of [JOB POSITION]."

This decision was based on the following convictions or unresolved arrests:

- _____
- _____
- _____

Attached to this Preliminary Notice are the following documents:

- A copy of your Criminal Background Check Report.
- *[If applicable, identify any other information or documentation relating to the applicant's or employee's criminal history obtained by the employer, including but not limited to, internet searches, court records, news articles, and/or social media content]*
- A copy of our **Initial Individualized Assessment**, which explains in detail our concerns regarding how your criminal history has a direct, adverse and negative bearing on your ability to perform the duties of the job position.

YOUR RIGHT TO RESPOND TO THIS PRELIMINARY NOTICE AND IMPORTANT DEADLINES:

You may respond to this Preliminary Notice before our decision becomes final.

You have **FIVE (5) BUSINESS DAYS** from the receipt of this Preliminary Notice to do **one** of the following:

- 1. Submit a written Response to this Preliminary Notice containing:
 - A. Information challenging the accuracy of the criminal background check report or other criminal history information; and/or
 - B. Evidence of rehabilitation or mitigating circumstances.
- 2. Submit a written request to extend the deadline to submit your Response for **TEN (10) ADDITIONAL BUSINESS DAYS**, affirming that you need additional time to gather or obtain relevant information, evidence and/or documents for your Response.
- 3. Notify us that you will NOT be submitting a written Response but are instead electing to present evidence of rehabilitation or mitigating circumstances **orally**, via in-person, virtual or telephone contact. The meeting will take place within ten (10) Business Days of your request.

NOTE: If you do not take any of the above actions within FIVE (5) BUSINESS DAYS from the receipt of this Preliminary Notice, the decision contained in this Preliminary Notice will become final.

RESPONSE EXAMPLES: Below are examples of information and records you may send us for our consideration:

Information Challenging the Accuracy of the Criminal History Record or Criminal Background Check	<ul style="list-style-type: none">• Evidence that you were not convicted or not arrested of one or more of the offenses we listed above.• Evidence that the criminal history report or background check record is inaccurate (<i>i.e., data errors, single criminal charge is listed multiple times, expunged or sealed records listed, etc.</i>).
Evidence of Rehabilitation or Mitigating Circumstances	<ul style="list-style-type: none">• Facts or circumstances surrounding the offense or conduct, showing that the conduct was less serious than the conviction seems.• The time that has passed since the conduct that led to your conviction(s) or since your release from incarceration.• The length and consistency of employment history or community involvement (such as volunteer activities) before and after the offense(s).• Employer recommendations, especially concerning post-conviction employment.• Employment or character references from people who know you, such as letters from teachers, counselors, supervisors, clergy, and probation or

	<p>parole officers.</p> <ul style="list-style-type: none"> • Educational attainment or vocational or professional training since the conviction, including training received while incarcerated. • Evidence that you attended school, job training, or counseling. • Completion of or active participation in rehabilitative treatment. • Evidence that you have performed the same type of work since your conviction. • Whether you are bonded under a federal, state, or local bonding program. • Your satisfactory compliance with all terms and conditions of parole and/or probation. • Any other evidence of your rehabilitation efforts or evidence showing your present fitness for the job position.
--	---

CONTACT INFO: Please send your Response, requests for extension, submissions and/or any additional information you would like us to consider to:

[INSERT NAME AND MAILING ADDRESS, EMAIL ADDRESS]

NEXT STEPS AFTER SUBMISSION OF RESPONSE: Second Individualized Assessment and Final Notice

Within **THIRTY (30) CALENDAR DAYS** of receipt of your Response to this Preliminary Notice, we will do the following:

- We will review your Response, including any information and records you timely submit to us, and conduct a Second Individualized Assessment, in order to reassess whether your criminal history has a direct, adverse and negative bearing on your ability to perform the duties of the job position.
- If after conducting the Second Individualized Assessment, we make a final decision to [Identify the adverse action, i.e., withdraw the conditional job offer, deny the promotion, discharge, etc.], we will send you a Final Notice of Adverse Action.

Sincerely,

[EMPLOYER COMPANY NAME]
[H.R CONTACT NAME]
[EMPLOYER ADDRESS]
[CONTACT'S EMAIL]
[CONTACT'S PHONE NUMBER]