

# FAIR CHANCE HIRING OVERVIEW/FAQ



The City of Austin's Fair Chance Hiring Ordinance aims to reduce recidivism and unemployment and increase re-integration for qualified job applicants with criminal histories. The law places restrictions on certain private employers on when they can ask about a job applicant's criminal history and how that information can be used.

## **What employers are covered by the Fair Chance Hiring Ordinance?**

Most private employers with 15 or more employees must abide by the Fair Chance Hiring Ordinance.

## **What employers are exempt from the Fair Chance Hiring Ordinance?**

The ordinance does not apply to:

- Private employers with less than 15 employees.
- Employers headquartered outside of Austin that have more than 15 employees, but less than 15 primarily working from an Austin location.
- Government employers on the federal, state, county and municipal levels.
- Public school districts.
- Private membership clubs exempt under Section 501 (c) of the Internal Revenue Code.

## **If an employer is covered by the ordinance, what is prohibited?**

- Publishing information about a job that states or implies that an applicant's criminal history is an automatic disqualification.
- Asking about an applicant's criminal history on a job application or at any time before making a conditional offer of employment, either directly to the applicant or through the use of a background check.
- Failing to hire or promote an applicant because of an applicant's criminal history without first performing an individualized assessment to determine that the applicant is unsuitable for the job.
- Retaliating against an individual who reports a Fair Chance Hiring Ordinance violation or participates in a Fair Chance Hiring complaint.

## **If an employer is covered by the ordinance, what is required?**

- Remove questions about criminal history from employment applications.
- Make a conditional employment offer before soliciting criminal history information.
- Inform an applicant in writing if the employer denied an applicant a job or a promotion because of the applicant's criminal history.
- Comply with subpoenas to produce documents and/or testimony that are issued during complaint investigations.

## **If an employer is covered by the ordinance, what actions are allowed?**

- May state in a job posting that a criminal history check will be conducted after a conditional offer is made.
- May reject an applicant after a conditional offer of employment if the employer's individualized assessment of the applicant's criminal history concludes that the individual is unsuitable for the job.
- May refuse to employ or promote an applicant after making a conditional offer of employment if the individual does not authorize a criminal history check.
- May explain to applicants in writing the employer's individualized assessment system.

## **What is an individualized assessment?**

After making a conditional offer and receiving an applicant's criminal history, but before denying a job or promotion, an employer must conduct an individualized assessment to determine whether an applicant is unsuitable for the job based on:

- The nature and gravity of any offense in the individual's criminal history.
- The length of time since the offense and completion of the sentence.
- The nature and duties of the job for which the individual applied.

## **What are the penalties for violating the ordinance?**

- Only civil fines (not criminal) up to \$500 will be imposed for a violation.
- Employers will have 10 days from the date of notice to cease a violation to avoid a fine.
- For a first-time violation, an employer can attend a compliance training session to avoid civil fines.