

Reminders About California's Fair Chance Act

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California's Fair Chance Act also known as the "Ban the Box" law took effect in January 2018. It generally prohibits employers with five or more employees from asking about your conviction history before making you a job offer. In 2021, California's Civil Rights Department (formerly the Department of Fair Employment and Housing) [announced new efforts to identify and correct violations of the Fair Chance Act](#). Since then, the Civil Rights Department has stepped up enforcement of the statute. As such, it is vital for covered employers to understand the requirements under the law.

Covered Employers

Public and private employers with five or more employees are covered by the law. This includes union hiring halls, labor contractors, temporary employment agencies, and client employers.

Requesting Background Checks

Covered employers may not ask applicants about their criminal history until after a conditional offer is extended. However, even after a conditional offer, employers may not ask about or consider information about the following:

- An arrest that did not result in a conviction.
- Referral to or participation in a pretrial or posttrial diversion program.
- Convictions that have been sealed, dismissed, expunged, or statutorily eradicated.

Steps for Rescinding a Job Offer

Under the law covered employers must take specific steps if they want to rescind a conditional job offer based on an applicant's criminal history.

1. Conduct an individualized assessment.
2. Provide notification in writing that the applicant's criminal history disqualifies the applicant from the position. The notice must also provide the conviction(s) that disqualify the applicant.
3. Provide a copy of the conviction history report to the applicant.
4. Provide the applicant 5 business days to respond to the preliminary decision to rescind.
5. Consider any response from the applicant.
6. Provide final notice in writing about disqualification.

The Civil Rights Department has [sample forms available on its website](#).

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