Know Your Rights:
Employment Background Checks

Know your rights under the San Francisco Fair Chance Ordinance

✓ The Fair Chance Ordinance (FCO):
  o Regulates San Francisco employers’ and City contractors’ use of arrest and conviction records in employment
  o Prohibits San Francisco employers and City contractors from issuing job ads and solicitations stating that persons with arrests or convictions may not apply or will not be considered for employment

✓ Employers cannot ask about arrest or conviction records on a job application.

✓ Under FCO, an employer cannot consider the following:
  o An arrest not leading to a conviction, except for unresolved arrests
  o Participation in a diversion or deferral of judgment program
  o A conviction that has been dismissed, expunged, otherwise invalidated, or inoperative
  o A conviction in the juvenile justice system
  o A conviction that is more than 7 years old
  o An offense other than a felony or misdemeanor, such as an infraction.

✓ An Employer cannot conduct a background check until after a live interview

✓ When an Employer conducts an employment background check, the Employer must:
  o Provide the applicant or employee with a copy of OLSE’s FCO Official Notice before asking about conviction history or unresolved arrests
  o Conduct an individual assessment if using an unresolved arrest or conviction history for an employment decision
  o Give the applicant or employee 7 days to explain or correct an unresolved arrest or conviction history, and provide any evidence of rehabilitation or mitigating factors
  o Delay any adverse action and reconsider the action if the applicant or employee provides evidence of rehabilitation, mitigating circumstances, or inaccuracies in the report
  o Inform the applicant or employee if he/she decides to take an adverse action based on the applicant or employee’s unresolved arrest or conviction history

✓ Some things to keep in mind with this law:
  o FCO does NOT require employers to give preference to, or hire an unqualified individual with an arrest or conviction record
  o FCO does NOT limit employers’ ability to choose the most qualified and appropriate candidate among the applicants
  o FCO does NOT require employers to conduct a background check

For more information or to file a complaint contact the
San Francisco Office of Labor Standards Enforcement (OLSE) at:
Hotline: 415-554-5192          Email: FCE@sfgov.org