

## The NYC Fair Chance Act

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Looking for a job in New York City – either as an employee or as an independent contractor? Trying for a promotion? If you are a person with a conviction history or have a pending criminal case (or both), the New York City Fair Chance Act (FCA) gives you certain rights and sets out requirements for how the application process must be conducted. The FCA covers **most** employers hiring for jobs in New York City and covers **most** jobs/independent contractor positions (see end of this sheet for exceptions).

Employers covered by the FCA *can't*:

- Ask you about your conviction history before making you a conditional job/independent contractor position or promotion offer
- Run a background check on you before making a conditional job/independent contractor position or promotion offer
- Use job ads, applications or any other materials that indicate that a background check is required or that they will not hire people with certain convictions
- Deny you a job outright based on a conviction history or a pending criminal charge, or fire you because of a new criminal charge or conviction – they must evaluate your situation individually using certain criteria, and involve you in the process.

After making a conditional offer (of a job/independent contractor position, or a promotion), these employers may look into your convictions (**not** your arrests that did not lead to conviction), but must consider them using the following factors:

- How your convictions relate to your ability to do the job
- How long ago your offenses were
- How serious your offenses were
- Whether you were 25 years old or younger at the time of the offense
- Any proof of positive change – documents showing strides you have made since your conviction, including history of positive performance on the job or in the community
- a Certificate of Relief from Disabilities or Certificate of Good Conduct if you have one

If after looking at your conviction history an employer wants to deny you a job/independent contractor position or promotion, they must send you a Fair Chance Notice explaining why they think there is a direct relationship between your convictions and the job, and/or why they think hiring you would create an unreasonable risk to persons or property at the job. They must tell you how each of the above factors played into their analysis and give you a copy of any information about your conviction history they used against you, including any background check they may have ordered. Separately, if you are already employed but have a new conviction or charge, the employer must look at that conviction or charge using the same factors set out above.

In all cases, the employer must then give you **at least five business days** to respond, which allows you time to send them more evidence of rehabilitation or to let them know that there are errors in the background check or other information they used against you.

Separately, if the employer believes you lied about your conviction history on document you completed or presented during the hiring process, they must send you a notice saying so and the reason why they think you lied. They must give you an opportunity to explain what happened and keep the job open during this time.

**Exceptions:** Law enforcement jobs and jobs that involve working with children, the elderly, the mentally ill, or the developmentally disabled are generally exempt from the Fair Chance Act.

### **Questions?**

Contact the Community Service Society at **(212) 614-5441**. Leave a message and we will call you back!

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