



COUNTY OF LOS ANGELES
DEPARTMENT OF HUMAN RESOURCES

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LISA M. GARRETT
DIRECTOR OF PERSONNEL

September 24, 2024

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF NEW BOARD POLICY – COUNTY FAIR CHANCE POLICY
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

The Department of Human Resources (DHR) requests approval of a new Board of Supervisors (Board) Policy that further reduces barriers to County employment for system-involved individuals. This policy strengthens rules and processes to support fair and equitable access to gainful employment in the County workforce for all.

IT IS RECOMMENDED THAT THE BOARD:

Approves the attached draft County Fair Chance Policy, which establishes guidelines for departments when making hiring and employment decisions regarding individuals with a conviction history.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Policy's purpose is to ensure departments follow a high and uniform standard when making hiring and employment decisions regarding individuals with a conviction history. On February 6, 2024, the Board of Supervisors adopted a motion directing DHR to draft a new Countywide Fair Chance Policy containing the key protections and rights for applicants and employees with prior conviction history and employer obligations consistent with the Fair Chance Ordinance for Employers. Additionally, the motion directed DHR to revise Countywide Policy, Procedure, and Guideline No. 514, Designation of Sensitive Positions and Conviction History Assessments, to specify further standards for the designation of sensitive positions requiring background checks, develop enhanced administrative procedures to strengthen applicant protections, and expand central

oversight of the County's Fair Chance practices.

Following extensive consultation with subject matter experts, including the Executive Director of the County Equity Oversight Panel (CEOP) and the County's Central Live Scan Unit, DHR, in close partnership with County Counsel, has drafted the attached proposed County Fair Chance Policy for approval.

The proposed new Board Policy incorporates the Board's directive and effectively establishes clear guidelines and requirements on Fair Chance hiring and employment decisions for departments.

The following key provisions are proposed for approval:

- Specifying that Fair Chance hiring pertains to all County employment applicants, including current employees applying for another position (e.g., promotions or transfers).
- Establishing that background checks may only be conducted for positions designated as "sensitive" as approved by the Director of Personnel.
- Establishing Fair Chance standards for job postings, timing of inquiries into candidate conviction history, conducting Individualized Assessments and Reassessments, and providing proper and timely notice to applicants.
- Confirming DHR's role in developing Countywide Fair Chance guidance and monitoring departmental compliance with all Fair Chance policies.
- Establishing a process for applicants and employees to report perceived Fair Chance policy violations to the CEOP.
- Requiring consistency in policies and procedures pertaining to County solicitations and contracts with Fair Chance policies and procedures.

It is recommended that the Board approves the proposed new Board Policy to strengthen the requirement to apply uniform Fair Chance standards when making Countywide hiring and employment decisions. DHR's proposed revisions to PPG No. 514 reflect the standards outlined in the new Board Policy, and they will be shared with the County's labor partners with the goal of implementing the County's Fair Chance policies concurrently with the Fair Chance Ordinance for Employers.

Implementation of Strategic Plan Goals

The recommended action is consistent with the principles of the Countywide Strategic Plan, North Star 3: Realize Tomorrow's Government Today, particularly with regard to implementing Equity-Centered Policies and Practices – Institutionalize the use of an equity lens in County policies and practices.

FISCAL IMPACT/FINANCING

There is no fiscal impact.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Honorable Board of Supervisors

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At its July 17, 2024, meeting, the Audit Committee reviewed and approved the proposed draft Board Policy.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No negative impact on services or projects is anticipated.

CONCLUSION

Upon Board approval, please return two adopted-stamped copies of this Board letter to David M. Morfin, Senior Human Resources Manager.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa M. Garrett".

LISA M. GARRETT

Director of Personnel

LMG:RC:JAWT

DMM:LR:AA

Enclosures

c: Executive Officer, Board of Supervisors



Los Angeles County
BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
A. 0.00 0	County Fair Chance Policy	00/00/00

PURPOSE

This County Fair Chance Policy ("Policy") provides direction and guidelines for County departments when making hiring and other employment decisions regarding persons with criminal history. This Policy is intended to ensure consistency in hiring procedures aligned with relevant Countywide authorities including the Fair Chance Ordinance for Employers, Countywide policies administered by the Director of Personnel, and the State’s Fair Chance Act.

REFERENCE

Fair Chance Act, Government Code Section 12952

California Labor Code Section 432.7

Los Angeles County Code, Chapter 8.300 – Fair Chance Ordinance for Employers

Los Angeles County Code, Chapter 5.09 – Policy of Equity

Board Policy 9.015 – County Policy of Equity

Board Policy 5.250 – Fair Chance Employment

Department of Human Resources, Policies, Procedures and Guidelines Number 514, “Designation of Sensitive Positions and Conviction History Assessments”

Department of Human Resources, Policies, Procedures and Guidelines Number 524, “Live Scan Procedures”

February 6, 2024, Agenda Item 2, “Increasing Fair Chance Hiring Throughout Los Angeles County.”

POLICY

As an employer, it is the policy of the County of Los Angeles ("County") to overcome and change the stigma and biases associated with persons with criminal records relating to hiring and employment decisions. The County is committed to ensuring that individuals with criminal history, that have minimal or no relationship to the duties and responsibilities of a position have fair and equitable access to opportunities for gainful employment in the County.

This Policy seeks to remove barriers to employment that undermine the County's "Care First, Jails Last" vision, to make Los Angeles County communities safer, and to enhance avenues for individuals with criminal history that support their re-integration into the workforce and reduce recidivism.

I. Scope of Coverage

All departments must adhere to this Policy which covers all applicants and employees of the County. Exemptions from this Policy are limited to the following:

1. A position where the department is required by any State, federal, or local law or regulation to conduct criminal background checks, inquire regarding criminal history, or restrict employment based on criminal history, or where the department is prohibited by any State, federal, or local law or regulation from employing a person with a specific criminal history.
2. Any department that is considered a "criminal justice agency," as the term is defined by Penal Code Section 13101.

II. Definitions

"Adverse Action": An action or decision by a County department that materially and adversely affects the terms, conditions, or privileges of employment of an applicant or employee of the County. This includes when a department rescinds a conditional offer of employment.

"Applicant": An individual who submits an application or similar document for County employment. This includes an existing County employee who has requested or applied for another position (e.g., promotion, reassignment, or transfer) within any County department.

"Background Check": The review of confidential or public information regarding an applicant's history.

"Criminal Background Check Report": Any criminal history report or conviction history report, including but not limited to, those produced by the California Department of Justice, including Criminal Offender Record Information; the Federal Bureau of Investigation; other law enforcement agencies; the courts, including case information or criminal dockets; or any consumer reporting or employment screening agency or business.

"County Fair Chance Policies": The collective term for this Policy and Countywide Policies, Procedures, and Guidelines (PPGs) Nos. 514 and 524, developed by DHR to ensure all departments adhere to the Fair Chance standards established by this Policy.

III. Prohibition of Consideration of Certain Types of Criminal History

A department shall not inquire about, require disclosure of, or if such information is received, base an adverse action in whole or in part on the following types of criminal history:

1. An arrest not followed by conviction, except as permitted in paragraph (1) of subdivision (a) and subdivision (f) of section 432.7 of the California Labor Code. This paragraph does not prohibit an inquiry into an unresolved arrest.
2. Referral to or participation in a pretrial or posttrial diversion program or a deferral of judgment program.
3. Convictions that have been sealed, dismissed, expunged, inoperative, invalidated, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a pardon or has been issued a certificate of rehabilitation.
4. An arrest, detention, processing diversion, supervision, adjudication, or court disposition that occurred while a person was subject to the process and jurisdiction of the juvenile court.
5. A non-felony conviction for possession of marijuana that is two or more years old.
6. A conviction that is more than seven (7) years old, which is measured from the date of disposition. This limitation will not apply where the applicant or employee is or will be:
 - a. Providing care or services to a minor; in contact with minors as part of their specific job duties; or having supervisory or disciplinary authority over a minor, which includes executive or management positions;
 - b. Providing care or services to a dependent adult; in contact with a dependent adult as part of their specific job duties; or has supervisory or disciplinary authority over a dependent adult, which includes executive or management positions. "Dependent adult" has the same meaning as defined in California Welfare and Institutions Code section 15610.23 or any successor State law;
 - c. Providing support services or care to a person 65 years or older; or has supervisory authority over a person 65 years or older, which includes executive or management positions; or
 - d. Providing services relating to the administration of public funds or public benefits, including eligibility for public funds or public benefits, provided the conviction is related to illegal access to funds or negotiable instruments, including but not limited to, fraud, bribery, forgery, embezzlement, receipt of stolen property, theft and/or robbery.
7. Information pertaining to an offense other than a felony or misdemeanor, such as an infraction, except that a department may inquire about, require disclosure of, base an adverse action on, or otherwise consider an infraction contained in an applicant's driving record if driving is an essential job function.

8. A conviction that arises out of conduct that has been decriminalized since the date of the conviction, including but not limited to, decriminalized conduct related to the noncommercial use or cultivation of cannabis.

IV. Fair Chance Process in County Hiring Decisions

A. Good Cause Requirement for Designation of Sensitive Positions.

The County does not require departments to conduct criminal background checks or inquire regarding an applicant's criminal history for all County positions.

Rather, departments may only conduct criminal background checks or inquire regarding criminal history for positions that are designated as "sensitive."

1. Departments may only designate positions as "sensitive" when there is good cause. Sensitive positions are those positions that require a review of criminal history following a conditional offer of employment based on one or more of the following criteria: the potential for harm or abuse of minors, dependent adults, or persons over 65 years; the safety and security of the public, County staff, vendors, animals, property, and sensitive data or information; or the heightened risk of financial loss to the County or the public it serves.
2. The designation of sensitive positions must be approved by the Department of Human Resources ("DHR") and is subject to periodic audit for compliance by DHR.

B. Job Bulletins, Postings, and Announcements.

1. Departments will not include any statements or language in job bulletins, postings, or announcements that prevent or discourage applicants with criminal history from applying for the position.
2. All job bulletins, postings, and announcements will include language stating that qualified applicants with arrest or conviction records will be considered for employment in accordance with County Fair Chance Policies and the Fair Chance Act (Gov. Code Section 12952).
3. Departments must periodically review their job bulletins, postings, and announcements to ensure that all essential job functions and/or material job duties of the position are included within the job description.

C. Prohibited Inquiries Prior to Conditional Offer of Employment

1. A department shall not inquire about, consider, disseminate, distribute, or require or encourage disclosure of an applicant's criminal history, prior to a conditional offer of employment.
2. Nothing prevents a department from asking an applicant, before a conditional offer of employment is made, questions regarding whether the applicant has "lived experience" in incarceration or with the criminal justice system, if such experience is a desired job qualification or job requirement for the position.

D. Notice of Intent to Conduct Background Check; Prohibited Use of Questionnaires

1. Before conducting a criminal background check in connection with a conditional offer of employment, the department must provide written notice to the applicant of the following:
 - a. A statement that the conditional offer of employment is contingent upon the review of the applicant's criminal history.
 - b. A statement that the department has designated the position as a sensitive position and the supporting reason(s) why the position has been designated as sensitive.
 - c. If the department is reviewing additional information, background, or history in addition to criminal history as part of the background check process, a complete list of all types of information, background or history that will be reviewed.
2. The department may not seek any additional criminal history information from the applicant, including through a criminal history questionnaire or similar document, prior to receiving the criminal background check report. A department must provide a copy of the criminal background check report to the applicant before seeking or discussing any criminal history information with the applicant.

E. Individualized Assessment and Notice of Preliminary Decision to Rescind Conditional Offer

1. **Individualized Assessment.** Following the receipt of an applicant's criminal background check report, the department must conduct an individualized assessment, documented within the County's official Fair Chance Tracking System, of whether the applicant's criminal history has a direct, adverse, and negative bearing on their ability to perform the specific duties of the position, such that it justifies the department's decision to rescind the conditional offer of employment.
 - a. **Rebuttable Presumption for Licenses.** If the applicant has obtained a license, certificate, authorization, or any other similar credential from a licensing, regulatory, or other government agency or board that is required for the position, there will be a rebuttable presumption their criminal history is not directly, adversely, and negatively related to the specific duties of the position.
 - b. **Delay in Receipt of Report.** A department cannot base a decision to rescind a conditional offer of employment solely on the fact that there has been a delay in receiving a criminal background check report, unless the department can demonstrate it would suffer an undue burden in its operations if the position remained unfilled pending receipt of the report, and 10 business days have passed since the department requested the report.

2. **Preliminary Notice to Rescind Conditional Offer of Employment.** If after performing the individualized assessment, the department intends to rescind a conditional offer of employment, the department must send a preliminary notice, containing the following information:
 - a. Notice that the department intends to rescind the conditional offer of employment due to the applicant's criminal history;
 - b. An explanation of the applicant's right to respond to the preliminary notice before the department's decision becomes final, including associated timelines for response;
 - c. A copy of the individualized assessment, or a detailed, written explanation of why the applicant's offer was rescinded; and
 - d. A copy of the criminal background check report and/or any other information or documentation related to the applicant's criminal history reviewed by the department in making its preliminary decision.
3. **Waiting Periods.** The applicant shall have at least five (5) business days to respond to the preliminary notice to rescind the conditional offer of employment before a department can make a final decision. However, a department will provide an applicant an additional 10-business days to respond if they make a written request for additional time within the initial five-day waiting period.

F. Reassessment and Final Notice of Rescission of Conditional Offer

1. **Reassessment.** Upon receipt of an applicant's timely response to the preliminary notice to rescind the conditional offer of employment, the department will conduct a reassessment, documented within the County's official Fair Chance Tracking System, considering all information and documents provided by the applicant, including any evidence of rehabilitation, or mitigating circumstances, or any documents disputing the accuracy of the criminal history information.
2. **Final Notice to Rescind Conditional Offer of Employment.** If after performing the reassessment, the department makes a final decision to rescind the conditional offer of employment, the department must send the applicant a final notice, containing the following information:
 - a. Notice of the department's final decision to rescind the conditional offer of employment;
 - b. A copy of the reassessment, or a written, detailed explanation of why the applicant's offer was rescinded;
 - c. Information regarding the right to appeal the final decision to DHR pursuant to the Civil Service Rules; and
 - d. Notice of the right to file a complaint with the County Equity Oversight Panel (CEOP) for violation of County Fair Chance Policies, and with the State's Civil Rights Department (CRD).

3. ***Delay in Issuance of Final Notice.*** If the department is providing the final notice to rescind the conditional offer of employment more than 30 calendar days after the applicant provided a timely response to the preliminary notice, the department must provide a written explanation in the final notice justifying why the final decision was not made within 30 days.

V. Fair Chance Process in Other Employment Decisions

Nothing in this policy is intended to supersede or contradict the County's Civil Service Rules or other authorities regarding the corrective action process, including potential discipline for violations of County policy based on an employee's current or past conviction history. The employing department must, before taking such adverse action, conduct an individualized assessment of whether the criminal history has a direct, adverse, and negative bearing on the employee's ability to perform the specific duties of the position. Where appropriate or required by law, the department should conduct a reassessment if an employee provides in a timely manner any evidence of rehabilitation or mitigating circumstances, or any documents disputing the accuracy of the criminal history information.

VI. Administrative Enforcement and Oversight

A. Department of Human Resources

1. DHR shall be responsible for developing and enforcing the PPGs that ensure all County departments adhere to the Fair Chance standards established by this Policy.
2. DHR will regularly review departments' compliance with County Fair Chance Policies and will report to the Board regarding progress and compliance at regular intervals. DHR is responsible for providing training, information, and/or technical assistance to departments as necessary and appropriate to ensure compliance with all County Fair Chance Policies.

B. County Equity Oversight Panel (CEOP)

1. Any applicant or employee who believes they have been subjected to a violation of this Policy has the right to file a complaint with the CEOP. Information about how to file a complaint must be provided in the final notice rescinding the conditional offer of employment.
2. All complaints of violations of County Fair Chance Policies or the State's Fair Chance Act will be filed with the CEOP (collectively, "Fair Chance complaints").
3. Fair Chance complaints will be investigated consistent with the procedures set forth under the County Policy of Equity (CPOE) or any successor policy.
4. The CEOP has the authority to make recommendations for disposition, discipline, and other corrective action regarding Fair Chance complaints.

VII. County Contractors and Subcontractors

The Internal Services Department will collaborate with DHR, County Counsel, and other relevant departments to ensure that all applicable policies and procedures pertaining to County solicitations and contracts, including renewed and/or amended contracts, are consistent with County Fair Chance Policies and procedures.

RESPONSIBLE DEPARTMENT

- Department of Human Resources
- County Counsel
- Executive Office of the Board of Supervisors
- Internal Services Department

DATE ISSUED/SUNSET DATE

Sunset date 4 years from date issued.