



## Sample for Employers

### Fair Chance Employment (FCE) Sample Policy

***Note to employers:** The Seattle Office of Labor Standards (OLS) created this sample policy to show employers the information that should be in a complete FCE policy. Employers may edit and personalize this policy according to their practices, so long as it meets or exceeds ordinance requirements.*

*The Fair Chance Employment Ordinance was passed, in part, because of the devastating impacts of disproportionate incarceration rates in communities of color. In Washington state, African Americans and Native Americans account for a disproportionate number of the state's prison population in relation to the size of these communities. Racial disparities in incarceration rates mean that blanket exclusions from employment based on criminal history have a disparate impact on communities of color.*

*People require a combination of family support, community assistance and economic opportunity to return from and remain out of the criminal legal system. Access to a job is a critical piece of this support. Reducing work barriers for people with criminal records strengthens our communities, reduces recidivism and crime, and helps end racial disparities in, and lowers the overall cost of, the criminal legal system.*

#### About Seattle's Fair Chance Employment Ordinance

The Seattle Fair Chance Employment Ordinance limits how employers and businesses can use an applicant or employee's arrest and conviction record in the hiring process or during employment within Seattle's city limits. In 2018, Washington State passed the Washington Fair Chance Act, RCW Chapter 49.94<sup>1</sup>, which also protects job applicants with criminal records in the hiring process.

This document outlines [Employer Name]'s policies related to compliance with Seattle's Fair Chance Employment Ordinance.

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<sup>1</sup> The Washington State Fair Chance Act limits use of criminal records in advertisements, applications, and the hiring process. The Washington State Office of the Attorney General's Civil Rights Division oversees the administration of this law. For more information, please visit their website at: <https://www.atg.wa.gov/fair-chance-act>

## Fair Chance Employment Policy

[Employer Name] is committed to complying with [Seattle's Fair Chance Employment Ordinance, Seattle Municipal Code \(SMC\) 14.17](#) and [Washington State's Fair Chance Act, RCW 49.94](#).

[Employer Name] will not post a job advertisement or implement a policy or practice in a way that excludes people with an arrest or conviction record.

[Employer Name] will not ask or request information about an applicant's criminal history before conducting an initial screening to determine whether the applicant meets the minimum qualifications of the job. Any subsequent inquiry into the applicant's criminal history will be conducted in accordance with Seattle's Fair Chance Employment Ordinance. All applicants will be considered regardless of their criminal history.

[Employer Name] will only make an employment decision based on a conviction record, pending criminal charge, or conduct relating to an arrest if it determines that it has a legitimate business reason to do so.

To have a legitimate business reason, [Employer Name] will have a good faith belief that the nature of the conduct underlying the conviction or pending criminal charge:

1. Will have a negative impact on the employee's or applicant's fitness or ability to perform the position sought or held, or
2. Will harm or cause injury to people, property, business reputation, or business assets.

[Employer Name] will also consider the following factors in that determination:

1. The seriousness of the underlying criminal conviction;
2. The number and types of convictions;
3. The time that has elapsed since the conviction or pending criminal charge, excluding periods of incarceration;
4. Any verifiable information related to the individual's rehabilitation or good conduct, provided by the individual;
5. The specific duties and responsibilities of the position sought or held; and
6. The place and manner in which the position will be performed.

If [Employer Name] determines that it has a legitimate business reason for making an employment decision based solely on a criminal conviction record, pending criminal charge, or conduct relating to an arrest, [Employer Name] will next identify the record(s) or information on

which it is relying to the individual and give the individual a *reasonable opportunity* to explain or correct that information, including the opportunity to provide verifiable information related to the individual's rehabilitation or good conduct. [Employer Name] will hold the position open for at least two (2) [insert day if internal policy is longer] days after notifying the individual of their intent to make an adverse decision and will follow these steps to provide the individual a reasonable opportunity to explain or correct that information:

1. Inform the applicant or employee of the records or information on which the employer will rely, including the entire results of the background check;
2. Explain to the applicant or employee on which part(s) of the records or information the employer is relying;
3. Give the applicant or employee a fair chance to review the records or information;
4. Provide the applicant or employee with the name, address and telephone number of the outside agency that supplied the report;
5. Provide notice to the applicant or employee of the individual's right to dispute the accuracy or completeness of any records or information the agency furnished;
6. Give the applicant or employee an opportunity to provide accurate records or information if the applicant or employee responds that the records or information are inaccurate; and
7. Give the applicant or employee an opportunity to provide an explanation as to the individual record or information on which the employer is relying as well as verifiable information related to the individual's rehabilitation or good conduct.

Verifiable information includes any information with respect to the applicant's rehabilitation or good conduct, such as:

1. A written or oral statement from the applicant or employee;
2. A written or oral statement from a member of the judiciary or law enforcement, parole or probation officer or person who provides similar services;
3. A written or oral statement from a member of the clergy, counselor, therapist, social worker, community or volunteer organization or person or institution who provides similar services;
4. A certificate of rehabilitation;
5. A certificate of completion or enrollment in an educational or vocational training program, including apprenticeships programs;
6. A certificate of completion or enrollment in a drug or alcohol treatment program;
7. A certificate of completion or enrollment in a rehabilitation program.

If the applicant provides information correcting or explaining their criminal history, or information verifying their rehabilitation or good conduct, *[Employer Name]* will consider the information and determine if it still has a legitimate business reason for making an adverse employment decision. Only after following this process will *[Employer Name]* make an employment decision based solely on a criminal conviction record, pending criminal charge, or conduct relating to an arrest.