

A Worker's Guide to Seattle's Fair Chance Employment Ordinance (FCE)

FCE limits an employer's use of conviction and arrest records in hiring and other workplace decisions.

WHAT DOES THE FAIR CHANCE EMPLOYMENT ORDINANCE DO?

The Fair Chance Employment Ordinance (FCE)¹ limits how employers and businesses can use people's conviction and arrest records in the hiring process and course of employment within Seattle's city limits.

HOW CAN JOB APPLICANTS USE FCE IN THEIR JOB SEARCH?

FCE prohibits ads and job applications that automatically exclude applicants with conviction and arrest records. Under FCE, employers cannot run ads with statements such as "Felons need not apply." FCE prevents an employer from asking questions about applicants' conviction and arrest records until after the employer has conducted an initial screening to eliminate unqualified applicants. In addition, FCE requires an employer to give applicants or employees the chance to explain or correct information about their records.

For example:

- You are looking for a job on Craigslist and you see an ad that reads, "Applicants must have a clean criminal record." FCE prohibits ads that automatically exclude applicants with conviction and arrest records.
- You want to apply for a position with a company, but you decide not to apply because the application asks questions about criminal history. Under FCE, employers cannot ask questions about your conviction and arrest record until after the employer has conducted an initial screening to eliminate unqualified applicants.
- You apply for a job, the interview goes well and you are offered the position. Before your start-date, however, the employer rescinds the offer based on your conviction or arrest history, without giving you an opportunity to explain your situation. FCE requires employers to give you the chance to explain or correct information about your conviction and arrest record.

¹On November 17, 2015, the Mayor transmitted to City Council a comprehensive set of amendments to Seattle's labor standards ordinances, including FCE, which City Council unanimously approved on December 14, 2015 and the Mayor signed on December 17, 2015. The ordinance received a name change from "Job Assistance (JAO)" to "Fair Chance Employment (FCE)". The changes went into effect on January 16, 2016.

WHAT VIOLATIONS HAS THE OFFICE OF LABOR STANDARDS FOUND?

Here are some FCE investigations from recent months:

- A national online food delivery company based in Seattle excluded any job applicant with a criminal background. This type of exclusionary ad is expressly illegal under FCE. After the applicant filed a charge with the OLS, the company agreed in a settlement to fully comply with the law, and changed its application process and public information across the country.
- A large human service organization in Seattle first offered a job to an applicant, then rescinded its offer to her after learning information about her criminal background. The organization did not give the applicant a chance to respond to their concerns, which is required by FCE. After OLS began its investigation, the organization reconsidered and offered her the job.
- A men's clothing retailer reached a private settlement with a job applicant who alleged that the retailer had wrongly denied him a job based on his record.
- OLS found that a local branch of a national supermarket chain violated FCE. A woman had applied for a job, and the company asked for information about her criminal history before her initial screening—a clear violation. After interviewing her, the company offered her a job contingent on a criminal background check. The company claimed to have sent her a letter rescinding the job offer, but the applicant never received it. When OLS looked at the text of the letter that the company believed it had sent, the language was so general that the applicant could not have known how to respond. (Under FCE, an employer must tell the applicant which criminal records the employer is relying on to make its decision. In this case, the employer did not do that.) The violation counted as a first violation for this employer. Any future violations will incur financial penalties.
- OLS also found that a large Seattle auto dealership violated FCE. The company first offered a job to a candidate, then revoked the job offer after running a criminal background check, and did not let the applicant explain or correct the information. Under FCE, this counts as a first violation, with no penalty assessed.
- OLS found a second FCE violation against a property management company in Seattle when conducting a compliance review following a first violation. The company entered into a settlement agreement with OLS, and also was assessed a \$750 penalty payable to the employee/applicant whose rights were violated.

Seattle passed the Fair Chance Employment Ordinance (FCE) to make it easier for people with conviction and arrest records to find and hold jobs that they're qualified to do.

WHAT HAPPENS WHEN SOMEONE FILES A COMPLAINT?

When someone contacts OLS with a complaint, a time will be set up for that person to speak with an intake investigator. This is an opportunity for the individual to describe in detail what happened, and to discuss the options that are available. If the situation appears to violate FCE, OLS will investigate to gather more facts, and possibly negotiate a settlement agreement with the employer to remedy the situation for this and future instances or issue an order requiring the employer to comply.

The goal of OLS is to ensure compliance with Seattle's labor standards laws—not just for one individual but company-wide, so that other people won't have similar experiences.

Learn more about the Fair Chance Employment Ordinance at seattle.gov/fairemployment.

CONTACT OR VISIT THE OFFICE OF LABOR STANDARDS (OLS) TO REPORT A VIOLATION.

- Call: (206) 684-4500
- Visit: 810 Third Avenue, Suite 750, Seattle, WA, 98104
- Send email: laborstandards@seattle.gov
- File complaint online: seattle.gov/laborstandards/file-complaint

OLS has jurisdiction within Seattle city limits, and Seattle's labor standards ordinances only cover employees working inside Seattle. If a report of noncompliance does not qualify for an OLS investigation, our office will provide referrals to another agency for help.



OFFICE OF LABOR STANDARDS

The mission of OLS is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice.

MORE INFORMATION
(206) 684-4500

laborstandards@seattle.gov
seattle.gov/laborstandards