

# FAIR CHANCE ORDINANCE



COUNTY OF SAN DIEGO  
Labor Standards and Enforcement

# HIRING TOOLKIT



.....

This toolkit contains samples of documents to help employers during the hiring process to comply with the County of San Diego Fair Chance Ordinance. More information about this ordinance and labor standards in San Diego County can be found at: <https://www.sandiegocounty.gov/OLSE>.

## RESOURCES:

- ✓ Advertising Job Openings
- ✓ Conditional Job Offers
- ✓ Written Individualized Assessment
- ✓ Preliminary Job Offer Revocation
- ✓ Individual Reassessment
- ✓ Final Revocation Notice

This ordinance applies to employers with 5 or more employees and either

- Business is located in the unincorporated areas of the county, or
- Applicant's primary job location will average two or more hours each week within the unincorporated areas of the county



### Contact us

Mikey Knab (he/him), Business Outreach Manager  
[michael.knab@sdcounty.ca.gov](mailto:michael.knab@sdcounty.ca.gov)  
619-490-0366

# RESOURCES



1

## Advertising Job Openings

An example of a voluntary **compliance statement** that employers can add to job postings and/or application materials

2

## Conditional Job Offer

A sample **conditional job offer letter** that includes notice of intent to conduct a criminal background check

3

## Individualized Assessment

A **template** that can be used by employers who would like to conduct an individualized assessment in writing to consider the relevance of past convictions to the job being offered. These assessments need to be done in writing, and held on file for at least one year

4

## Preliminary Job Offer Revocation

A **sample letter** an employer may use to inform a job applicant in writing of the intent to revoke a conditional job offer due to relevant criminal history

5

## Individual Reassessment

After an employer informs an applicant that they intend to revoke a job offer due to the applicant's criminal history, the applicant must be given at least 5 business days to provide mitigating evidence that speaks to their character and fitness to perform the job being offered. An additional 5 business days are required if the applicant intends to gather and deliver information disputing the *accuracy* of the criminal history report. During this reassessment process, the position must remain open, except in emergent circumstances. This **sample form** can be used by an employer to conduct an individualized reassessment based on information provided by the applicant

6

## Final Revocation Notice

Once an employer has considered any mitigating information provided by the applicant, they may still decide to revoke the conditional job offer due to relevant criminal history. This sample letter meets the employer's responsibility to notify the applicant in writing



OLSE@sdcounty.ca.gov



[General Inquiries](https://www.sandiegocounty.gov/OLSE.html)  
<https://www.sandiegocounty.gov/OLSE.html>



619-531-5129



## ADVERTISING JOB OPENINGS COMPLIANCE STATEMENT

---

Employers can include this voluntary compliance statement in job postings and/or application materials indicating intent to comply with the Fair Chance ordinance

“[Employer] will consider qualified applicants with a criminal history pursuant to the San Diego County Fair Chance Ordinance and the California Fair Chance Act. You do not need to disclose your criminal history or participate in a background check until a conditional job offer is made to you. After making a conditional offer and running a background check, if [Employer] is concerned about conviction that is directly related to the job, you will be given the chance to explain the circumstances surrounding the conviction, provide mitigating evidence, or challenge the accuracy of the background report. Find out more about the Fair Chance Ordinance by visiting the San Diego County Office of Labor Stands and Enforcement webpage: [www.sandiegocounty.gov/OLSE](http://www.sandiegocounty.gov/OLSE)”



# Conditional Job Offer

Below is a sample conditional job offer letter that includes notice of intent to conduct a criminal background check

## SAMPLE CONDITIONAL JOB OFFER LETTER

[DATE]

**RE: Conditional Offer of Employment & Notice of Conviction Background Check**

Dear [APPLICANT NAME]:

We are writing to make you a conditional offer of employment for the position of [INSERT POSITION]. Before this job offer becomes final, we will check your conviction history. The form attached to this letter asks for your permission to check your conviction history and provides more information about that background check.

After reviewing your conviction history report, we will either:

- a. Notify you that this conditional job offer has become final; or
- b. Notify you in writing that we intend to revoke (take back) this job offer because of your conviction history.

As required by California state and San Diego County law, we will NOT consider any of the following information:

- Arrest not followed by conviction;
- Referral to or participation in a pretrial or posttrial diversion program; or
- Convictions that have been sealed, dismissed, expunged, or pardoned.

As required by the California Fair Chance Act and the San Diego County Fair Chance Ordinance, we will consider whether your conviction history is directly related to the duties of the job we have offered you. We will consider all of the following:

- The nature and seriousness of the offense
- The amount of time since the offense
- The nature of the job

**We will notify you in writing if we plan to revoke (take back) this job offer after reviewing your conviction history. That decision will be preliminary, and you will have an opportunity to respond before it becomes final.** We will identify conviction(s) that concern us, give you a copy of the background check report, as well as a copy of the written individualized assessment of the report and the relevance of your history to the position. We will then hold the position open, except in emergent circumstances to allow you at least 5 business days to provide information about your rehabilitation or mitigating circumstances and/or provide notice that you will provide information showing the conviction history report is inaccurate. Should you provide notice that you will provide information showing the conviction history report is inaccurate, you will have an additional 5 business days to provide that evidence. Should you provide additional information, we will then conduct a written individualized reassessment and decide whether to finalize or take back this conditional job offer. We will notify you of that decision in writing.

Sincerely,

[EMPLOYER]

Enclosure: Authorization for Background Check (as required by the U.S. Fair Credit Reporting Act and California Investigative Consumer Reporting Agencies Act)

## General Inquiries



OLSE@sdcounty.ca.gov



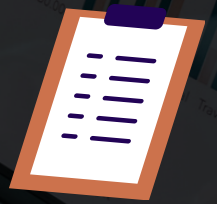
<https://www.sandiegocounty.gov/OLSE.html>



619-531-5129

# Written Individualized Assessment

A template that can be used by employers to conduct an individualized assessment in writing to consider the relevance of past convictions to the job being offered. These assessments are required to be done in writing, and must be held on file for at least one year



## Sample Criminal History Individual Assessment Form

### INFORMATION

Employer Name:

Applicant Name:

Position Applied For:

Date of Conditional Offer:

Date of Assessment:

Date of Criminal History Report:

Assessment Performed by:

### ASSESSMENT

1. The specific duties and responsibilities of the job are:

- a.
- b.
- c.
- d.

2. Description of the criminal conduct and why the conduct is of concern with respect to the position in question (conduct that can't be considered includes infractions or arrests that didn't lead to a conviction, convictions that have been sealed or expunged, adjudications in the juvenile justice system, or participation in a pre- or post-trial diversion program):

3. How long ago did the criminal activity occur:

4. Activities since criminal activity, such as work experience, job training, rehabilitation, community service, etc.:

- a.
- b.
- c.

**BASED ON THE FACTORS ABOVE, WE ARE CONSIDERING RESCINDING OUR OFFER OF EMPLOYMENT BECAUSE** (describe the link between the specific aspects of the applicant's criminal history with risks inherent in the duties of the employment position):

### General Inquiries



# Sample Employer Notice of Preliminary Decision to Revoke Job Offer Because of Conviction History

A sample letter an employer may use to inform a job applicant in writing of the intent to revoke a conditional job offer due to relevant criminal history

**Sample Employer Notice of Preliminary Decision to Revoke Job Offer Because of Conviction History**

[DATE]

Re: **Preliminary Decision to Revoke Job Offer Because of Conviction History**

Dear [APPLICANT NAME]:

After reviewing the results of your conviction history background check, we have made a preliminary (non-final) decision to revoke (take back) our previous job offer for the position of [INSERT POSITION] because of the following conviction(s):

- [LIST CONVICTION(S) THAT LED TO DECISION TO REVOKE OFFER]

A copy of your conviction history report is attached to this letter. More information about our concerns is included in the "Individualized Assessment" below.

- As prohibited by Local and California law, we have NOT considered any of the following:
- Arrest(s) not followed by conviction;
  - Participation in a pretrial or posttrial diversion program; or
  - Convictions that have been sealed, dismissed, expunged, or pardoned.

### Your Right to Respond:

The conditional job you were offered will remain available for five business days so that you may respond to this letter before our decision to revoke the job offer becomes final. Within [INSERT NUMBER] business days\* from when you first receive this notice, you may send us:

- Evidence of rehabilitation or mitigating circumstances
- Information challenging the accuracy of the conviction history listed above. If, within 5 business days, you notify us that you are challenging the accuracy of the attached conviction history report, you shall have another 5 business days to respond to this notice with evidence of inaccuracy.

Please send any additional information you would like us to consider to: [INSERT NAME AND MAILING ADDRESS OR EMAIL ADDRESS]

Here are some examples of information you may send us:

- Evidence that you were not convicted of one or more of the offenses we listed above or that the conviction record is inaccurate (such as the number of convictions listed);
- Facts or circumstances surrounding the offense or conduct, showing that the conduct was less serious than the conviction seems;
- The time that has passed since the conduct that led to your conviction(s) or since your release from incarceration;
- The length and consistency of employment history or community involvement (such as volunteer activities) before and after the offense(s);

rs from

s:

v much  
role,

t of

ent's office at

rovide

## General Inquiries



OLSE@sdcounty.ca.gov



<https://www.sandiegocounty.gov/OLSE.html>



619-531-5129

# Individualized Reassessment

After an employer informs an applicant that they intend to revoke a job offer due to the applicant's criminal history, the applicant must be given at least 5 business days to inform the employer that they intend to dispute the accuracy of the information and /or provide mitigating evidence. Once that intent is communicated to the employer, an additional 5 business days must be given for the applicant to gather and deliver their evidence to the employer. During this period, except in emergency situations, the position on offer must remain open. This sample form can be used by an employer to conduct an individualized reassessment based on information provided by the applicant

## Sample Criminal History Individualized Reassessment Form

### INFORMATION

Employer Name:

Applicant Name:

Position Applied For:

Date of Conditional Offer:

Date of Reassessment:

Date of Criminal History Report:

Assessment Performed by:

### REASSESSMENT

1. Was there an error in the Criminal History Report?  Yes  No

If yes, describe the error:

2. Evidence of rehabilitation and good conduct (this evidence may include, but is not limited to, documents or other information demonstrating that the Applicant attended school, a religious institution, job training, or counseling, or is involved with the community. This evidence can include letters from people who know the Applicant, such as teachers, counselors, supervisors, clergy, and parole or probation officers):

- a.
- b.
- c.
- d.

**BASED ON THE FACTORS ABOVE, WE ARE RESCINDING OUR OFFER OF EMPLOYMENT BECAUSE** (describe the link between the specific aspects of the applicant's criminal history with risks inherent in the duties of the employment position):

## General Inquiries



OLSE@sdcounty.ca.gov



<https://www.sandiegocounty.gov/OLSE.html>



619-531-5129



# Final Revocation Notice

Once an employer has considered any mitigating information provided by the applicant, they may still decide to revoke the conditional job offer due to relevant criminal history. This sample letter meets the employer's responsibility to notify the applicant in writing

## Sample Employer Notice of Final Decision to Revoke Job Offer Because of Conviction History

[DATE]

Re: Final Decision to Revoke Job Offer Because of Conviction History

Dear [APPLICANT NAME]:

We are following up about our letter dated [DATE OF NOTICE] which notified you of our initial decision to revoke (take back) the conditional job offer.

(Please check one:)

- We did not receive a timely response from you after sending you that letter, and our decision to revoke the job offer is now final.
- We made a final decision to revoke the job offer after considering the information you submitted, which included: [LIST INFORMATION SUBMITTED]

After reviewing the information you submitted, we have determined that there  was  was not (check one) an error on your conviction history report. We have decided to revoke our job offer because of the following conviction(s):

- [LIST CONVICTION(S) THAT LED TO DECISION TO REVOKE OFFER]
- 
- 

### Our Individualized Assessment:

We have individually assessed whether your conviction history is directly related to the duties of the job we offered you. We considered the following:

1. The nature and seriousness of the conduct that led to your conviction(s), which we assessed as follows: [DESCRIBE WHY CONSIDERED SERIOUS]
2. How long ago the conduct occurred that led to your conviction, which was: [INSERT AMOUNT OF TIME PASSED] and how long ago you completed your sentence, which was: [INSERT AMOUNT OF TIME PASSED].
3. The specific duties and responsibilities of the position of [INSERT POSITION], which are: [LIST JOB DUTIES]

We believe your conviction record lessens your fitness/ability to perform the job duties and have made a final decision to revoke the job offer because: [OUTLINE REASONING FOR DECISION TO REVOKE JOB OFFER BASED ON RELEVANCE OF CONVICTION HISTORY TO POSITION]

### General Inquiries



# FAIR CHANCE ORDINANCE



COUNTY OF SAN DIEGO  
Labor Standards and Enforcement

# HIRING TOOLKIT



.....

**This toolkit contains samples of documents to help employers during the hiring process to comply with the County of San Diego Fair Chance Ordinance.**

**For the latest updates to this toolkit, please visit our website at [www.sandiegocounty.gov/OLSE.html](https://www.sandiegocounty.gov/OLSE.html).**



[OLSE@sdcounty.ca.gov](mailto:OLSE@sdcounty.ca.gov)



**General Inquiries**  
<https://www.sandiegocounty.gov/OLSE.html>



**619-531-5129**