



HUMAN RIGHTS

If you wish to file a complaint with the Commission on Human Rights, you must do so within one year of the last alleged act of discrimination. The Commission's services are provided free of charge. To schedule an appointment, please call **311 or (212) 416-0197**.

If you wish to file a complaint in State Court, you must do so within three years after the last alleged act of discrimination. You may not file both with the Commission and in State Court.

To request a training, or to learn more about the Commission's work, visit **NYC.gov/HumanRights**



Carmelyn P. Malalis,
Chair/Commissioner

Bill de Blasio,
Mayor

EMPLOYMENT

It is illegal to discriminate against employees, interns, job seekers, and independent contractors on the basis of:

- Age • Arrest or Conviction Record • Caregiver Status • Color • Credit History • Disability • Gender • Gender Identity • Immigration Status • Marital or Partnership Status • Military Service • National Origin • Pre-employment Marijuana Testing • Pregnancy • Race • Religion/Creed • Salary History • Sexual and Reproductive Health Decisions • Sexual Orientation • Status as Victim of Domestic Violence, Sexual Violence, or Stalking • Unemployment Status

HOUSING

It is illegal to discriminate against tenants, apartment seekers, and home buyers on the basis of:

- Age • Color • Disability • Gender • Gender Identity • Immigration Status • Lawful Occupation • Lawful Source of Income (including housing subsidies) • Marital or Partnership Status • Military Service • National Origin • Pregnancy • Presence of Children • Race • Religion/Creed • Sexual Orientation • Status as Victim of Domestic Violence, Sexual Violence, or Stalking

PUBLIC ACCOMMODATIONS

It is illegal to discriminate in public spaces like stores, restaurants, parks, libraries, or taxis on the basis of:

- Age • Color • Disability • Gender • Gender Identity • Immigration Status • Marital or Partnership Status • Military Service • National Origin • Pregnancy • Race • Religion/Creed • Sexual Orientation

DISCRIMINATORY HARASSMENT

It is illegal to physically threaten or use force against someone or to damage property because of:

- Age • Color • Disability • Gender • Gender Identity • Immigration Status • Marital or Partnership Status • National Origin • Pregnancy • Presence of Children • Race • Religion/Creed • Sexual Orientation

BIAS-BASED PROFILING BY LAW ENFORCEMENT

It is illegal for law enforcement to target someone because of:

- Age • Color • Disability • Gender • Gender Identity • Housing Status • Immigration Status • National Origin • Pregnancy • Race • Religion/Creed • Sexual Orientation

LENDING PRACTICES

It is illegal to discriminate in lending practices or terms because of:

- Age • Color • Disability • Gender • Gender Identity • Immigration Status • Marital or Partnership Status • Military Service • National Origin • Pregnancy • Presence of Children • Race • Religion/Creed • Sexual Orientation

RETALIATION

The law prohibits retaliation for opposing a discriminatory practice, filing a complaint of discrimination, assisting in an investigation of discrimination, or testifying in a proceeding related to a discrimination case.

DERECHOS HUMANOS

Si usted quiere presentar una querrela con la Comisión de Derechos Humanos, tiene que presentarla dentro de un año después del acto discriminatorio. Los servicios de la Comisión son gratis. Para programar una cita, por favor llame al **311** o **(212) 416-0197**.

Si usted quiere presentar una querrela en el Tribunal del Estado, tiene que presentarla dentro de tres años después del acto discriminatorio. No puede presentar a la Comisión y al Tribunal del Estado al mismo tiempo.

Para solicitar un entrenamiento o aprender más acerca del trabajo de la Comisión, visite NYC.gov/DerechosHumanos



@NYCCHR

Carmelyn P. Malalis,
Presidenta y Comisionada

Bill de Blasio,
Alcalde

EMPLEO

Es ilegal discriminar en contra de empleados, pasantes, personas que buscan trabajo y contratistas independientes por:

Edad • Expediente de arrestos o condenas • Ser encargado del cuidado de una persona • Color • Historial crediticio • Discapacidad • Sexo • Identidad de género • Estatos migratorio • Estado civil o de relación • Servicio militar • Origen nacional • Prueba de Marihuana antes del Empleo • Embarazo • Raza • Religión/credo • Historial salarial • Decisiones sobre la salud sexual y reproductiva • Orientación sexual • Ser víctima de violencia doméstica, violencia sexual o acoso • Estar desempleado

VIVIENDA

Es ilegal discriminar en contra de los inquilinos, personas que buscan alquilar apartamento y propietarios de viviendas por:

Edad • Color • Discapacidad • Sexo • Identidad de género • Estatos migratorio • Trabajo legal • Fuente de ingresos legal (incluidos los subsidios para la vivienda) • Estado civil o de relación • Servicio militar • Origen nacional • Embarazo • Presencia de niños • Raza • Religión/credo • Orientación sexual • Ser víctima de violencia doméstica, violencia sexual o acoso

ACOMODACIONES PÚBLICOS

Es ilegal discriminar en espacios públicos, como tiendas, restaurantes, parques, bibliotecas o taxis, por:

Edad • Color • Discapacidad • Sexo • Identidad de género • Estatos migratorio • Estado civil o de relación • Servicio militar • Origen nacional • Embarazo • Raza • Religión/credo • Orientación sexual

ACOSO DISCRIMINATORIO

Es ilegal amenazar físicamente o usar fuerza en contra de alguien o dañar propiedad por:

Edad • Color • Discapacidad • Sexo • Identidad de género • Estatos migratorio • Estado civil o de relación • Origen nacional • Embarazo • Presencia de niños • Raza • Religión/credo • Orientación sexual

ELABORACIÓN DE PERFIL BASADO EN PREJUICIO POR PARTE DE LOS CUERPOS DEL ORDEN PÚBLICO

Es ilegal que un agente del orden público elija como blanco a alguien motivado por:

Edad • Color • Discapacidad • Sexo • Identidad de género • Estatos de vivienda • Estatos migratorio • Origen nacional • Embarazo • Raza • Religión/credo • Orientación sexual

PRÁCTICAS DE PRÉSTAMOS

Es ilegal discriminar contra alguien en prácticas o términos de préstamos por:

Edad • Color • Discapacidad • Sexo • Identidad de género • Estatos migratorio • Estado civil o de relación • Servicio militar • Nacionalidad de origen • Embarazo • Presencia de niños • Raza • Religión/credo • Orientación sexual

REPRESALIAS

La ley prohíbe tomar represalias por oponerse a una práctica discriminatoria, presentar una queja por discriminación, ayudar con una investigación de discriminación o testificar en un proceso relacionado con un caso de discriminación.

FAQs for Fair Chance Act

1. Can an employer state that a “background check” is required for a position, or put “background check required” in a job advertisement or application?

No, an employer cannot state that a background check is required nor can an employer put on a job advertisement or application that a background check is required, unless the position is specifically exempted under the Fair Chance Act. The Fair Chance Act defines prohibited inquiries and statements broadly, including those that express any limitation, directly or indirectly, based on a person’s arrest or criminal conviction.

If an employer wishes to inform an applicant that it will investigate the applicant’s background prior to a conditional offer, it should specifically identify what it will investigate rather than use the blanket term “background check.” For example, an employer can state that it is conducting a “reference check,” an “employment or education verification,” or a “resume authentication.”

2. After a conditional offer of employment, what can an employer ask an applicant about his/her arrest/conviction history?

After a conditional offer, an employer may ask an applicant if s/he has any history of convictions. An employer may also ask about the circumstances that led to any conviction, including the arrest leading to the conviction and original charges, to determine how serious the applicant’s conduct was. However, an employer may never ask about arrests that did not lead to convictions; adjournments in contemplation of dismissal, unless they were revoked and not later sealed; convictions that were sealed, expunged, or reversed on appeal; convictions for violations, infractions, or other petty offenses such as “disorderly conduct;” resulted in a youthful offender or juvenile delinquency finding; or convictions that were withdrawn after completion of a court program. The following is an example of a permissible question after a conditional offer:

Have you ever been convicted of a misdemeanor or felony? Answer “NO” if your conviction: (a) you have never been convicted of a misdemeanor or felony; (b) the misdemeanor or felony was sealed, expunged, or reversed on appeal; (c) was for a violation, infraction, or other petty offense such as “disorderly conduct;” (d) resulted in a youthful offender or juvenile delinquency finding; or (e) if you withdrew your plea after completing a court program and were not convicted of a misdemeanor or felony.

3. Do the protections of the Fair Chance Act apply when a person has convictions from outside New York, particularly if the conviction is not a crime in New York?

Yes, the Fair Chance Act applies to all criminal convictions, no matter where they occurred.

4. Does the Fair Chance Act apply to volunteers or unpaid interns at an organization?

No, the Fair Chance Act, as part of the New York City Human Rights Law, does not apply to volunteers, but it does apply to unpaid interns. An intern is covered under the New York City Human Rights Law if: (a) the individual works for a fixed period of time at the end of which there is no expectation of employment; (b) the individual performing the work is not entitled to wages for the work performed; and (c) the work performed: (i) supplements training given in an educational environment that may enhance the employability of the intern; (ii) provides experience for the benefit of the individual performing the work; (iii) does not displace regular employees; and (iv) is performed under the close supervision of existing staff. N.Y.C. Admin. Code § 8-102(28).

5. Does an employer’s conditional offer have to be in writing?

No, the conditional offer may be made orally. However, there are other important steps in the employment process that must be made in writing. Specifically, if an employer is considering withdrawing a conditional offer after reviewing an applicant’s conviction history, it must provide certain information in writing. The employer’s analysis of an applicant’s conviction history under Article 23-A must be in writing along with a copy of any background check the employer used in making its determination.

6. If a position is exempt from the Fair Chance Act, does the employer still have to follow Article 23-A with respect to the hiring process for that position?

Yes, the employer must still make employment decisions consistent with Article 23-A. Although the employer can consider an applicant’s conviction history before making a conditional offer for positions that are exempt from the Fair Chance Act, the employer must still consider the Article 23-A factors in making a decision not to hire that person. Applicants who are denied employment may request an explanation, which must be provided within 30 days under New York Correction Law § 754. The only positions that are exempted from the requirements of Article 23-A are law enforcement positions.

7. Can a job posting say that an “employer will consider qualified applicants with criminal histories, consistent with the law”?

In general, employers should not include language in job postings saying that qualified applicants with criminal histories will be considered “consistent with the law” (or that uses similar neutral language about criminal history). Doing so communicates that criminal histories will be considered during the hiring process and could discourage qualified applicants from applying for a job, in violation of the law. However, if an employer is required by the law of another jurisdiction (e.g. Los Angeles or San Francisco) to include specific language in a job posting and the posting concerns a position that is or may also be located in New York City, employers are permitted to include the language specifically required by the law of the other jurisdiction, and should also include language stating that applicants with criminal histories are welcome or are encouraged to apply.

CRIMINAL RECORD? YOU CAN WORK WITH THAT.

Criminal history can't be part of the hiring process until after a job offer. That means you get a fair chance, and employers get to consider more candidates.

Employers cannot ask you about your criminal history until after they offer you a job. After an employer offers you a job, they can ask about and consider your criminal history. If an employer decides that they no longer want to hire you after finding out about your record, the employer must follow a specific process. This guide explains that process and provides you with information about your rights both before and after getting a job offer. You have the same rights under this law in hiring or any other employment decision, like promotions. However, this guide focuses on the job application process.

□ BEFORE A JOB OFFER

Your criminal record is off-limits until an employer offers you a job.

Employers cannot place job ads that mention arrests, convictions, or having a clean record, such as “no felons,” “background check required,” or “must have clean record.”

Job applications cannot have questions about criminal records and cannot ask you to authorize a background check. Employers cannot ask you questions about your criminal record. If you are asked about your record, your answer cannot be used against you. Employers cannot run a background check on you until after a conditional offer of employment.

□ AFTER A JOB OFFER

Once an employer offers you a job, they can ask about and consider your criminal record.

Employers can ask you if you have any criminal convictions. You must disclose felony and misdemeanor convictions, no matter how old they are.

Employers can require you to authorize a background check. If you do not authorize a background check, an employer can refuse to hire you.

There are three things **employers can never ask about, and you should not disclose even if asked:**

1. Any arrest where you were never convicted;
2. Any convictions that are sealed. Convictions are usually sealed when you:
 - Are convicted of a non-criminal violation, like disorderly conduct;
 - Complete a court-ordered drug treatment program; or
 - Are adjudicated as a youthful offender or juvenile delinquent.
3. Most cases adjourned in contemplation of dismissal (“ACD”).

Even if an employer finds out about this information, it cannot be used against you. The only exception is if you are applying to be a police or peace officer.

□ BEFORE A FINAL EMPLOYMENT DECISION

Once an employer finds out about your criminal record, the employer can decide not to hire you. But before making a final decision, an employer must do three things:

1. Give you a copy of any background check it did on you;
2. Evaluate you by considering specific factors and share that written evaluation with you; and

3. Hold the job open for at least three business days after the employer communicates its decision to you so that you can respond to the decision.

Employers cannot deny you work just because you have a criminal record. Before deciding not to hire you because of your criminal record, employers must consider these factors:

- That New York public policy encourages the employment of people with criminal records;
- The specific duties and responsibilities of the job;
- The bearing, if any, of your criminal record on your ability to do the job;
- The amount of time that has passed since the events that led to your criminal conviction;
- Your age when you engaged in criminal conduct;
- The seriousness of your conviction record;
- Any positive information you have in your favor. This includes evidence that you attended school, job training, or counseling; had past employment; or are involved with your community. These can include letters of recommendation from people who know you, like teachers, counselors, supervisors, clergy, and parole or probation officers.
- If you have a certificate of relief from disabilities or a certificate of good conduct, an employer **must** presume you are rehabilitated for your convictions.

After looking at these factors, an employer can decide to not hire you for one of two reasons:

1. because a **direct relationship** exists between your conviction and the job you want; or
2. because your conviction history creates an **unreasonable risk** to people or property.

The employer must send you its reasoning in writing, along with the background check it used. After receiving these materials, you have three business days to respond to address the employer's concerns.

Do all employers have to follow the Fair Chance Act?

No, some employers are required by law to check your criminal record. Other employers are required by law to not hire people with certain serious convictions. These employers do not have to follow the FCA. In addition, law enforcement-related city agencies do not have to follow the FCA.

What should I do if I believe an employer did not follow the rules described here?

Call 311 and ask for the Commission on Human Rights. You can leave an anonymous tip, or you can file a complaint about what happened to you. If the employer is found to have broken the law, you could recover lost wages or other damages and the employer may have to pay a fine.