



■ Fair Chance Act Sample Forms

This packet contains sample documents to assist employers in complying with the California Fair Chance Act. For more information about this law, which seeks to remove barriers to employment for individuals with criminal histories, visit www.dfeh.ca.gov/criminalhistory/.

Advertisement and Application / Compliance Statement >

This is a voluntary statement that employers can choose to add to job advertisements and applications regarding the Fair Chance Act.

Conditional Job Offer / Letter >

This sample letter can be used by an employer to make a conditional job offer and to notify the applicant that the employer intends to conduct a criminal background check.

Individual Assessment / Form >

After making an applicant a conditional job offer and conducting a criminal background check, this sample form can be used by an employer to conduct the necessary individualized assessment of an applicant's criminal history.

Preliminary Notice to Revoke Job Offer Because of Conviction History / Letter >

If an employer intends to revoke a job offer because of the applicant's criminal history, this sample letter can be used by an employer to meet its obligation to provide notice to the applicant.

Individual Reassessment / Form >

Once an employer notifies an applicant that it intends to revoke a job offer because of the applicant's criminal history, the employer must give the applicant at least 5 days to dispute the accuracy of the information and to provide mitigating information. This sample form can be used by an employer to conduct an individualized reassessment based on information provided by the applicant.

Final Notice to Revoke Job Offer Because of Conviction History / Letter >

If after considering any information provided by the applicant, the employer still intends to revoke the job offer, this sample letter can be used by an employer to meet its obligation to provide notice to the applicant of that decision.

ADVERTISEMENT AND APPLICATION COMPLIANCE STATEMENT



Below is a voluntary statement that employers can choose to add to job advertisements and applications regarding the Fair Chance Act:

[Employer] will consider qualified applicants with a criminal history pursuant to 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 Act by visiting www.dfeh.ca.gov/fair-chance-act/.

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 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, 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, and allow you at least 5 business days to respond with information showing the conviction history report is inaccurate and/or with information about your rehabilitation or mitigating circumstances.

We will review any information you timely submit and then 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)

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 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:

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);
- Employment or character references from people who know you, such as letters from teachers, counselors, supervisors, clergy, and probation or parole officers;

SAMPLE EMPLOYER NOTICE OF PRELIMINARY DECISION TO REVOKE JOB OFFER BECAUSE OF CONVICTION HISTORY



- Evidence that you attended school, job training, or counseling;
- Evidence that you have performed the same type of work since your conviction;
- Whether you are bonded under a federal, state, or local bonding program; and
- Any other evidence of your rehabilitation efforts, such as (i) evidence showing how much time has passed since release from incarceration without subsequent conviction, (ii) evidence showing your compliance with the terms and conditions of probation or parole, or (iii) evidence showing your present fitness for the job.

We are required to review the information you submit and make another individualized assessment of whether to hire you or revoke the job offer. *We will notify you in writing if we make a final decision to revoke the job 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 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 because:

Sincerely,

[Employer contact person name]
[Employer company name]
[Employer address]
[Employer contact phone number]

Enclosure: Copy of conviction history report

* The applicant must be allowed at least 5 business days to respond.

SAMPLE CRIMINAL HISTORY INDIVIDUAL 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):

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 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]

SAMPLE EMPLOYER NOTICE OF FINAL DECISION TO REVOKE JOB OFFER BECAUSE OF CONVICTION HISTORY



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:

Request for Reconsideration:

(Please check one:)

- We do not offer any way to challenge this decision or request reconsideration.
- If you would like to challenge this decision or request reconsideration, you may:
[DESCRIBE INTERNAL PROCEDURE]

Your Right to File a Complaint:

If you believe your rights under the California Fair Chance Act have been violated during this job application process, you have the right to file a complaint with the California Department of Fair Employment and Housing (DFEH). There are several ways to file a complaint:

- File a complaint online at the following link: www.ccrs.dfeh.ca.gov
- Download an intake form at the following link: www.dfeh.ca.gov/complaint-process/file-a-complaint/filing-a-complaint-by-mail-2 and email it to contact.center@dfeh.gov or mail it to 2218 Kausen Drive, Suite 100, Elk Grove, CA 95758.
- Visit a DFEH office. Click the following link for office locations: www.dfeh.ca.gov/contact-us/office-locations

For more information, visit www.dfeh.ca.gov/complaint-process or call (800) 884-1684.

Sincerely,

[Employer contact person name]
[Employer company name]
[Employer address]
[Employer contact phone number]