

**Fair Chance Hiring in Financial Services:
A Step-by-Step Guide
to Hiring Workers
with Arrest and
Conviction Records in
the Financial Services
Industry**

About the National Employment Law Project (NELP)

Founded in 1969, NELP is a leading nonprofit advocacy organization with a mission to build a just and inclusive economy in which all workers have expansive rights and thrive in good jobs. As part of that mission, NELP works with allies across the country to eliminate the barriers to employment that people with records face and examines connections between the labor market and carceral systems.

About the Safer Foundation (Safer)

Founded in 1972, Safer is one of the nation's largest nonprofit social impact organizations focusing on human capital development for people with arrest and conviction records. Safer is a national leader in addressing the challenges and barriers to successful reentry and a recognized source for fair chance best practices.

About Cabrini Green Legal Aid (CGLA)

Founded in 1973, CGLA is a not-for-profit organization that provides records relief, criminal defense, housing, and family law legal services and social services for justice-involved individuals in Illinois to remove barriers to economic opportunity, housing, and education.

Authors

Lead Writer:

Beth Avery, Senior Staff Attorney, NELP

Contributing Writers:

Han Lu, Senior Staff Attorney, NELP

Kemi Role, Director of Work Equity, NELP

Ana Karen Flores, Program Administrator, Safer

Benjamin Osborne, Senior Director of Monitoring, Evaluation and Research, Safer

Sodiqa Williams, General Counsel and Senior Vice President, Supportive Reentry Division, Safer

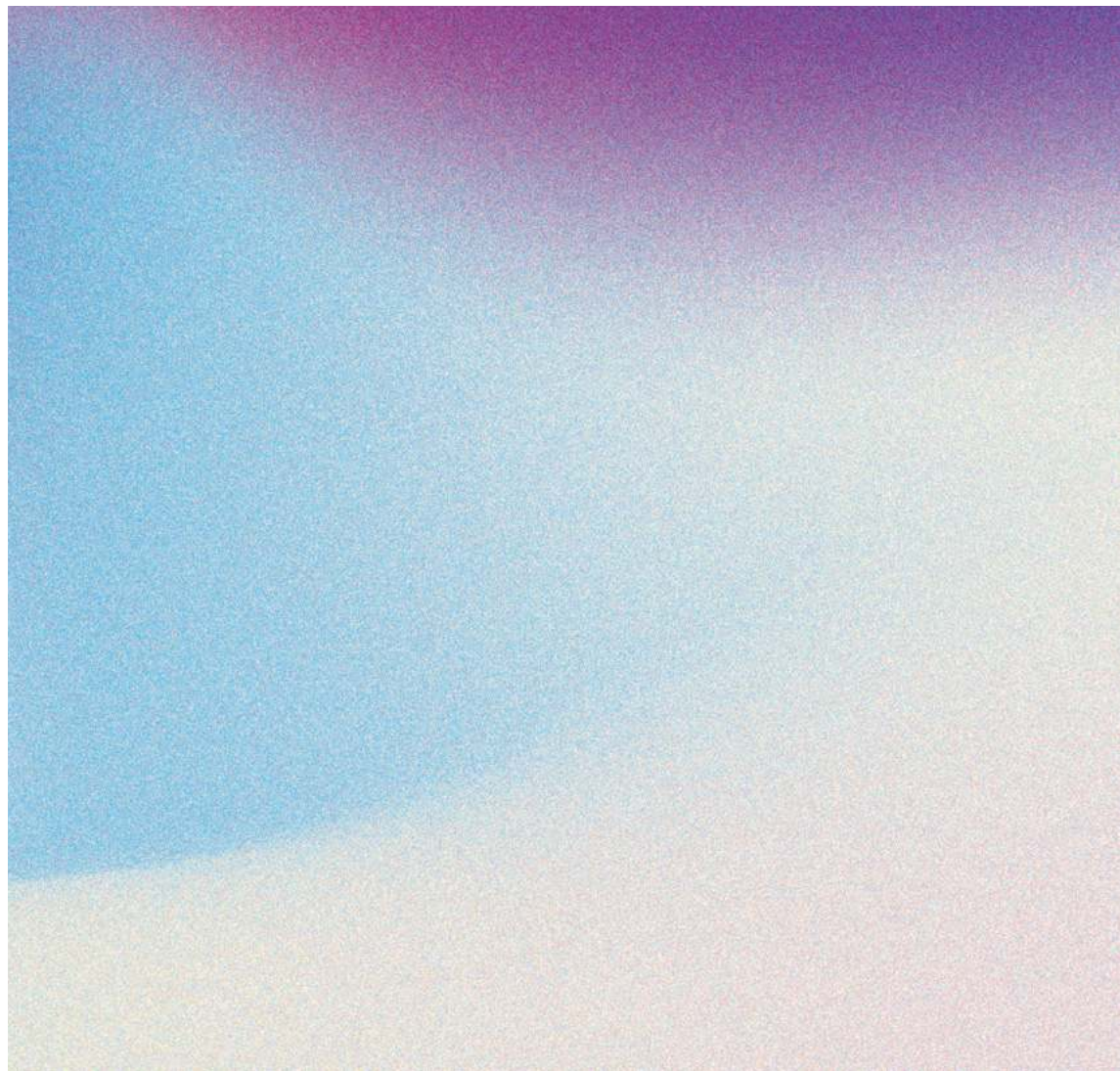
Brandon Williams, Supervising Attorney, CGLA

Cynthia Cornelius, Director of Programs, CGLA

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Disclaimer: The information and materials within this guide do not constitute legal advice. An attorney should be consulted for more detailed information relevant to individual cases. The authors shall not be liable for the information provided herein or for the results obtained from the use of such information.



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EXECUTIVE SUMMARY

All of us are stakeholders in building a just and inclusive economy. That fact has been underlined by the COVID-19 pandemic and recent racial justice uprisings, both of which have brought renewed institutional attention to longstanding racial and economic inequalities in the United States. Employers and their human resources departments have an out-sized opportunity to make changes where they will have significant, rippling impacts: the workplace. The need for change is particularly apparent in the financial services industry, which has a predominantly white workforce and concentrates Black and Latinx workers in the most junior, lowest paid jobs.¹



A just and inclusive economy is only achievable by centering racial equity. The fact that a disproportionate share of people in underpaid, insecure, and unsafe jobs are Black and brown is not inevitable, nor accidental.”

REBECCA DIXON

Executive Director, National Employment Law Project

The exclusion of people with arrest and conviction records contributes to the lack of diversity in financial services and to occupational segregation across industries. Pervasive employment barriers lock individuals with arrest and conviction records—who are disproportionately Black, Latinx, and Indigenous² people—into unstable, unsafe, and underpaid jobs long after they are arrested or convicted. Employer policies that increase the hiring and retention of workers with records in good jobs mean a fighting chance for those workers to build economic stability for themselves, their families, and their communities. Such “fair chance hiring” reforms also represent an institutional commitment to racial and economic equity.

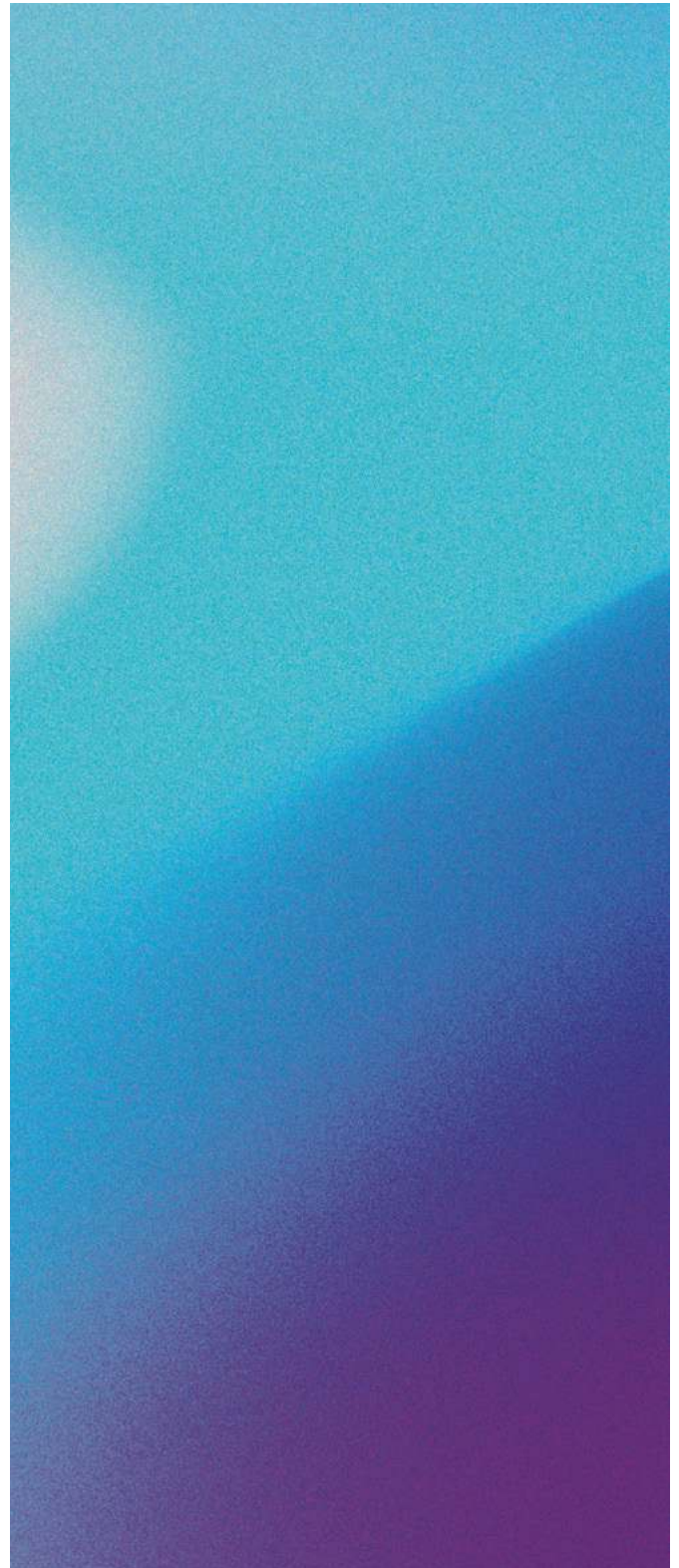
“What is “fair chance hiring”?”

“Fair chance hiring” refers to employer policies or practices that expand job opportunities for people with arrest and conviction records. Some of the simplest reforms include removing conviction record inquiries from job application forms so that employers judge applicants on their qualifications first; replacing blanket hiring bans with individualized assessments that consider the age of an offense and its relevance to the job; and implementing transparent processes that provide candidates with an opportunity to review background check reports and provide additional information. Sometimes these changes are adopted voluntarily by employers and sometimes they are mandated by law.

THE ROLE OF HUMAN RESOURCES IN FAIR CHANCE HIRING

As part of an influential sector, financial services companies have a unique duty and opportunity to expand career opportunities for people with records by adopting “fair chance hiring” practices and encouraging other employers to follow that example. Encouraging your company to embrace fair chance hiring is not only the right thing to do, but it will also represent a smart change for your company. Employers that have already made such changes have praised the enthusiasm and work ethic of their new employees as they take steps toward building a more diverse workforce.

Your company and HR team can take concrete steps toward welcoming and retaining a more diverse staff, including workers with records. In various industries—including health care,³ higher education,⁴ philanthropy,⁵ and financial services—human resources staff, recruiters, and hiring managers have played a crucial role in the creation of more equitable workplaces. These roles represent where the rubber hits the road and therefore where internal policy change will have the greatest impact. While this guide may be helpful to staff members in a variety of industries and positions, the following advice is particularly targeted toward human resources and hiring staff and executives in the financial services industry.



A GUIDE TO FAIR CHANCE HIRING FOR FINANCIAL SERVICES EMPLOYERS

At the request of the JPMorgan Chase Foundation, the National Employment Law Project (NELP), along with Safer Foundation (Safer) and Cabrini Green Legal Aid (CGLA), composed this toolkit to help financial services employers expand opportunities for workers with conviction and arrest records. This guide provides step-by-step instructions for financial services employers—particularly, their human resources staff and executives—to operationalize their commitment to fair chance hiring into concrete policies and practices.

The recommendations in this toolkit stem from years of research, work with employers in other industries, and lessons drawn from JPMorgan Chase’s “second chance pilot” in Chicago, which the company undertook in 2019-2021 with Safer, CGLA, and other community partners. Your company may have adopted some of these steps already, in which case we encourage you to read on for opportunities to further improve. Even if your company is not ready to make every change now, you can begin to lay the groundwork for future progress.

This guide provides instruction on the following specific aspects of hiring and retention:

Step One:

Prepare your company by fostering a fair chance culture at all levels.

- Obtain and clearly communicate support throughout your organization.
- Cultivate a workplace culture that embraces diversity and fosters the talent of Black, Latinx, and Indigenous workers.
- Partner with organizations created by and for formerly incarcerated people and people with conviction records.

Step Two:

Develop recruiting strategies that attract and welcome people with records.

- Include affirmative language about hiring people with records on job announcements.
- Adopt people-first, humanizing language to welcome people with records.
- Focus on building employee skills instead of requiring applicant credentials.

Step Three:

Adjust application forms to skip self-reporting and delay background checks until after a conditional job offer.

- “Ban the Box” and conduct background checks later in the hiring process.
- Avoid a “candor trap” by eliminating any requirement for applicants to self-disclose their record.
- Carefully consider whether and how to mention background checks in job application forms.

Step Four:

Implement a fairer and more transparent candidate selection and screening process.

- Enhance transparency of the hiring process and fairness of the interview.
- Extend a conditional job offer in writing, making clear upon what the offer is conditioned.
- Avoid overly strict resume verification and make clear how requested information may be used to disqualify applicants.
- Clearly inform candidates about the criminal background check process and require only necessary information.
- Share background check information on a need-to-know basis only.

Step Five:

Assist candidates in overcoming legal hurdles when conducting legally required background checks.

- Conduct legally required background checks only to the extent required by law.
- Offer to sponsor the candidate’s application for consent from the Federal Deposit Insurance Corporation or other relevant agency.
- Provide the applicant with information about legal prohibitions and refer them to legal assistance.

Step Six:

Limit additional record screening and discretionary exclusions.

- Clearly communicate fair chance expectations to background screeners.
- Limit the scope of what records you consider.
- Forego automatic exclusions for thorough, written assessments of job relatedness and an individualized assessment.

Step Seven:

Provide clear written notice and sufficient opportunity to respond to background check results.

- Provide clear written notice of intent to rescind the conditional offer, explanation, and a copy of the background check report.
- Invite submission of additional information and provide sufficient time to respond.
- Review additional information as part of an individualized assessment and rescind offer only if absolutely necessary.

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STEPS TO FAIR CHANGE HIRING IN FINANCIAL SERVICES

1. STEP ONE: PREPARE YOUR COMPANY BY FOSTERING A FAIR CHANGE CULTURE AT ALL LEVELS.

Before beginning to implement any specific policy changes, lay the groundwork for successful fair chance hiring within your company. Step One of this toolkit provides insight into three ways to set up your fair chance hiring initiative for success:

- A. Obtain and clearly communicate support throughout your organization.**
- B. Cultivate a workplace culture that embraces diversity and fosters the talent of Black, Latinx, and Indigenous workers.**
- C. Partner with organizations created by and for formerly incarcerated people and people with conviction records.**

Fair Chance Hiring Policies Create the Opportunities that People with Records Deserve



“Jamar” is proud of his new position with the lockbox department at a JPMorgan Chase bank.⁶ “This is a big deal. We’re considered vital to the bank,” he explained. “I take it pretty serious.”

In 2019, JPMorgan Chase took initial steps to improve its fair chance hiring policies and then partnered with the Safer Foundation to pilot a “pipeline” of job applicants with conviction or arrest records. Jamar was hired by the bank in April 2020. Thereafter, he earned two promotions in less than a year: first from part-time to full-time, and then to a supervisory position. “I just got a raise,” he said with pride in January 2021. “I’m doing something right, and I’m grateful for the opportunity. And it appears that I’ve taken that opportunity and ran with it a bit.”

Before receiving his offer to work for the bank, Jamar had worked in unstable temp positions and in jobs that took a “physical toll” on his body, such as in factories and a gas station. The fortunate timing of Jamar’s new job, at the start of the COVID-19 pandemic, is not lost on him. “To be able to get a job like this at a time whe[n] people are losing jobs and opportunities is a big deal on top of everything else.”

Now forty years old, he is living with his mother for the first time since he was a teenager. But his stable bank job allows him to contribute to the household and help pay bills, which is “a real big deal.” He even has a retirement plan. “I plan on continuing to keep my foot on the gas and move around within the firm in other positions that may be better suited for what I feel my talents, abilities, and skills are. I’m a fairly skilled individual. I’m a team player. I work hard. I’m not afraid to work hard. I want to pay all my bills. I want to be a relevant and upstanding citizen of whatever city, town, neighborhood that I’m living in.”

Jamar recognizes that his circumstances are not unique. Other people with records need and deserve opportunities, and employers must change their hiring policies to help shift the narrative about workers with records. Opportunities like his can “make a considerable difference and a dent in the train of thought that everybody with a background issue is a criminal [and] can’t function as an upstanding citizen or an employee for some place like a Chase bank.”

“[T]here are people out there that have made some mistakes in life for whatever reason. . . . That shouldn’t condemn them or stop them from using their talents, abilities, and skills out here in prominent positions for well-known firms and companies.”

A. OBTAIN AND CLEARLY COMMUNICATE SUPPORT THROUGHOUT YOUR INSTITUTION.



While the inspiration for fair chance hiring can come from anyone within an organization, support among company leadership is crucial to institution-wide change. Cultivate buy-in of key internal stakeholders by pointing out the many compelling moral and economic justifications for fair chance hiring and by pointing to other businesses that have already taken steps toward greater equity. Encourage leadership to adopt an unambiguous policy statement that recognizes fair chance hiring as a company priority by communicating dedication to future changes and, if applicable, formalizing some changes already made. Such a statement will highlight the importance of the issue for staff and external stakeholders and set the tone for the work ahead.

Fair Chance Hiring is Good for Business and the Economy

In addition to the clear moral imperative, adopting fair chance hiring policies makes sense from a business perspective. Widening and diversifying your talent pool as well as attracting smart, committed employees are among the many compelling reasons.

“I’ll just continue to say that [people with records are] talent that our country, and our firm, and our communities need to apply. It’s untapped talent that we have to tap into because we are missing out in our economy if we don’t.”

— Michelle Kuranty, Executive Director & Global Head of Talent Acquisition Sourcing, JPMorgan Chase⁷

People with records account for a significant portion of the workforce. Nearly one in three U.S. adults has an arrest or conviction record, including at least 34 percent of unemployed prime-working-age men.⁸ Workers have inherent dignity and worth that will always shine through. Despite negative and unfair stereotypes resulting from the stigma of their records, studies demonstrate that, when compared with other workers, people with records stay in their jobs longer⁹ and earn promotions faster¹⁰ as they seek economic stability.

Thorough and repeated opportunities for internal education are necessary to allay fears sparked by stereotypes and unconscious biases that can undermine a well-intentioned policy. Ensure that all staff receive training on the importance and details of your institution’s fair chance hiring policies. How you present this information can set the tone for whether your staff views policy changes as insignificant or as integral to how your company operates. Trainings should include scenarios and examples relevant to the workplace and dispel myths about people with records. As discussed below, enlisting the help of people with records can make trainings more powerful.

B. CULTIVATE A WORKPLACE CULTURE THAT EMBRACES DIVERSITY AND FOSTERS THE TALENT OF BLACK, LATINX, AND INDIGENOUS WORKERS.



Because the stigma of a record both results from and reinforces racism, training on fair chance policy changes must be linked to internal education efforts focusing on diversity, equity, inclusion, anti-bias, and cultural competency. The same biases that lead employers to disproportionately screen out people of color and people from lower-income households will reinforce hiring practices that lock out people with records.



A Diverse, Culturally Competent Staff is Crucial to Attracting and Retaining Workers of Color

When asked about why he decided to apply to work in a bank, Safer Foundation client “Jamar”¹¹ pointed to the importance of having “seen people that look like me working in banks.” He also benefited from knowing someone, a high school friend, who had a positive experience working in the banking industry. And he benefited from having “parents that were professionals, that got up to go to work, that put on the suit and the tie and the trench coat”

But, especially in more senior positions, Black and Latinx people are underrepresented among the staff of financial services companies.¹² Feelings of self-doubt may be especially likely if, unlike Jamar, job applicants or new employees didn’t see people who looked like them working in business or professional jobs when growing up. And even Black employees who have advanced may be left to feel like outsiders among mostly white leadership.

C. PARTNER WITH ORGANIZATIONS CREATED BY AND FOR FORMERLY INCARCERATED PEOPLE AND PEOPLE WITH CONVICTION RECORDS.

People with conviction records offer invaluable insights into needed policy changes and most effectively communicate the wisdom of such changes. Employers who are serious about fair chance hiring will benefit from partnering with organizations created by and for directly impacted people. Advocates from the formerly incarcerated community can increase the effectiveness of internal trainings by, among other things, providing important context for the policy change. Recounting personal experiences can help staff identify connections between racism in the criminal legal system and the discrimination regularly faced by people with records. Moreover, interactions between your staff and people with records can help counter dehumanizing stereotypes and bring policy changes to life.

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2. STEP TWO: DEVELOP RECRUITING STRATEGIES THAT ATTRACT AND WELCOME PEOPLE WITH RECORDS.

After laying the groundwork for fair chance hiring, it's time to begin implementing policy changes throughout your hiring process. Step Two of this toolkit recommends three ways to make changes at the start of that process:

- A. Include affirmative language about hiring people with records in job announcements.**
- B. Adopt people-first, humanizing language to welcome people with records.**
- C. Focus on building employee skills instead of requiring applicant credentials.**

A. INCLUDE AFFIRMATIVE LANGUAGE ABOUT HIRING PEOPLE WITH RECORDS ON JOB ANNOUNCEMENTS.

Many people with records may assume that they won't be considered for a job in financial services and decline to even apply. Employers can help counteract that reluctance by revising the language in all job announcements.

“I’ve never worked at a bank. I didn’t know, especially with my conviction now, that they would even hire me. I just felt like I’m doomed.”

“ S Y L V I A ”

was hired by JPMorgan Chase in Chicago after applying through a workforce intermediary, Cara Chicago.¹³

As a first step, remove any language signaling that people with records won’t be hired. For example, eliminate ambiguous language indicating that the applicant “must pass a background check” or must have “good moral character”—phrases that discourage individuals with a wide variety of records from applying. Next, add affirmative statements to job announcements about your company’s dedication to fair chance hiring. In addition to listing race, gender, disability, and other factors, your company’s equal opportunity and affirmative action statement should indicate that qualified applicants will be considered for employment without discrimination based on “prior arrest or conviction.” Consider adopting language like that recommended by the **New York City Commission on Human Rights**: “People with criminal histories are encouraged to apply” or “We value diverse experiences, including prior contact with the criminal legal system.”

Ongoing Relationships with Community Organizations

Make for Successful Recruiting

In Chicago, JPMorgan Chase created a “sourcer” position to work directly with local community organizations, including the Safer Foundation, which specializes in the employment needs of people with records. As a “conciierge” of sorts, the position was intended to help ensure that candidates from those community organizations didn’t “get lost in the shuffle.”¹⁴

As that sourcer, Sharon Stevens shares job openings with the local organizations, which, in turn, refer potential applicants to her. Stevens then screens the candidates, offers encouragement, and guides them through the application process. If they seem like a good fit, Stevens notifies the relevant recruiter, sharing the applicant’s resume and why she thinks they should be interviewed.¹⁵

After recruiters and hiring managers became familiar with Stevens’s sourcing, demand for her referrals took off. According to Michelle Kuranty, the company’s executive director and global head of talent acquisition sourcing, “the recruiters got very comfortable And the hiring managers, their feedback has been that the candidates coming from this pipeline are much more engaged [on] day one. And the retention has been very strong.” She says one key to Stevens’s success has been her mindset toward “pulling in, versus looking for ways to funnel people out.”¹⁶ Indeed, looking for reasons to give people a chance represents a shift in mentality that can benefit all stages of the hiring process.

Importantly, Stevens views her role as assisting not just her employer, but also the candidates: “Everybody that I talk to, I want to help them. . . . I want to place them in a position that is a good fit for them and also for the team.” A former military recruiter, Stevens describes herself as coming from a community like those served by the organizations she now supports as a sourcer: “It’s come full circle for me.”¹⁷

Safer Foundation client “Steven” remarked on Stevens’s caring and respectful attitude: “[She] followed up to each of my calls, and she always stayed positive, which kept me positive.”¹⁸ Safer Foundation client “Tammika” additionally remarked that Stevens’s guidance and encouragement is especially valuable to people separated from the workforce: “She is . . . definitely someone that you want on the frontlines recruiting the candidates, especially those that have not been in the field for quite some time and that may be nervous.”¹⁹ Such feedback, in turn, increased Safer Foundation staff’s comfort in referring candidates to Stevens.

B. ADOPT PEOPLE-FIRST, HUMANIZING LANGUAGE TO WELCOME PEOPLE WITH RECORDS.

When describing people with records in job postings, application forms, and internal communications, avoid stigmatizing terminology such as “ex-offender,” “ex-convict,” “felon,” or “criminal.” Such terms focus identity on former involvement in the criminal legal system, ignoring who a person is today and what they can contribute in their role in your company. Instead, adopt language that centers on the person, such as a “person with an arrest or conviction record.” Commit staff time to editing existing documents, and encourage staff, contractors, and even the media to use humanizing language.

While some may argue that a term such as “person with a conviction record” is clunky, the alternative is worse. A term such as “felon” is “devoid of humanness,” explained Eddie Ellis, founder of the Center for NuLeadership. “We habitually underestimate the power of language. . . . The worst part of repeatedly hearing your negative definition of me is that I begin to believe it myself.”²⁰

Using stigmatizing terminology can undermine your efforts toward fair chance hiring. External communications that use negative language may dissuade qualified individuals from applying to your company—both because it indicates they are unlikely to be hired and because such language hints at an unwelcome workplace culture. Internal communications that continue to use negative terminology will subtly reinforce stereotypes and unconscious biases among your employees.

C. FOCUS ON BUILDING EMPLOYEE SKILLS INSTEAD OF REQUIRING APPLICANT CREDENTIALS.

Replacing extended lists of professional requirements with a summary of qualities that are truly necessary to do a job—specific skills, talents, and competencies—can help your institution avoid unnecessarily excluding strong applicants. Job announcements should not require specific educational degrees or certifications unless they are vital to carrying out a given role. People with records often have skills companies need but might lack formal credentials. Employers should therefore assess what aspects of a candidate’s past may demonstrate the actual qualities and skills sought. Sourcers, recruiters, and human resources staff should be taught to recognize how surviving the criminal legal system often demonstrates resilience and tenacity, and they should be instructed not to weed out resumes that reflect training and work experience obtained while incarcerated.

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3. STEP THREE: ADJUST APPLICATION

FORMS TO SKIP SELF-REPORTING AND

DELAY BACKGROUND CHECKS UNTIL

AFTER A CONDITIONAL JOB OFFER.

Job applications are generally the first opportunity for interested individuals to share their skills and qualifications with your hiring team. Step Three of this toolkit highlights three ways to make the application process fairer and more welcoming to people with records:

- A. “Ban the Box” and conduct background checks later in the hiring process.**
- B. Avoid a “candor trap” by eliminating any requirement for applicants to self-disclose their record.**
- C. Carefully consider whether and how to mention background checks in job application forms.**

A. “BAN THE BOX” AND CONDUCT BACKGROUND CHECKS LATER IN THE HIRING PROCESS.

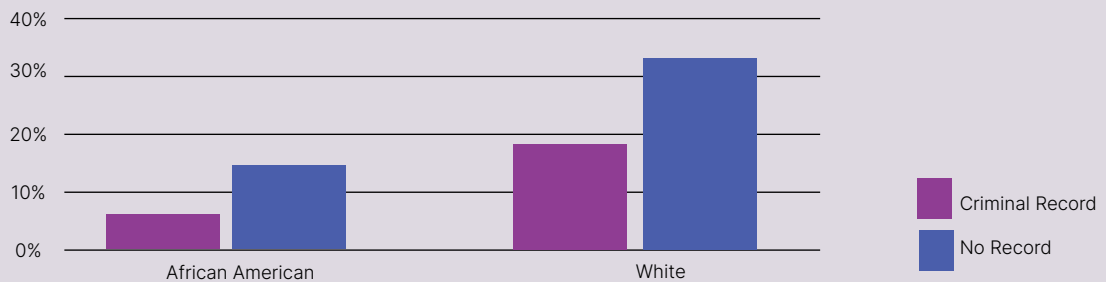
Eliminating questions about arrest and conviction records from job application forms and interviews—and instead, delaying background checks until after a conditional job offer—is a significant initial step toward fair chance hiring. Studies show that when employers learn of a conviction record up front, they are much less likely to select the applicant, especially if the applicant is Black; the callback rate for white applicants with records is cut in half, and callbacks for Black applicants with records drop by two-thirds.²¹

“The box” on a job application—where applicants are asked to put a checkmark if they have been convicted of any past offense—frequently deters people with records from applying. Similarly, applicants with records may drop out of your hiring process if they are asked about their conviction history during another phase of the application process. Consequently, delaying background checks until after a conditional job offer encourages the largest candidate pool.

The stigma of a record is strong, and even well-intentioned HR professionals will be affected by their internal biases.²² By delaying the review of a jobseeker's conviction history until after a conditional job offer, the hiring assessment will naturally focus on what matters most: finding the person whose skills and experience make them most likely to succeed in the position.

Some employers mistakenly believe that “banning the box” is sufficient to make their hiring processes more accessible to qualified people with records. However, there are various other ways that people with records and people of color can be unfairly excluded from hiring or otherwise set up for failure. The steps that follow detail additional best practices your company can adopt to promote equitable hiring.

Job callbacks Drop by Half for White Workers with Records, by Almost Two-Thirds for Black Workers with Records



B. AVOID A “CANDOR TRAP” BY ELIMINATING ANY REQUIREMENT FOR APPLICANTS TO SELF-DISCLOSE THEIR RECORD.

Conviction records are complicated and not easily summarized by an applicant. Candidates may be unable to recall the details of their conviction history or confused about what they need to report versus what they may believe to have been expunged or be otherwise irrelevant. Therefore, even after a conditional offer, a better way to determine the content of the candidate's record is to skip asking them to self-disclose and instead simply conduct the required background check.

Some employers nevertheless perceive asking candidates to self-report their records as a test of integrity. This misguided expectation of self-disclosure, however, undermines fair chance hiring by distracting from what matters most—competence, qualifications, and experience. Far from ensuring trustworthiness, self-disclosure more often tests whether the job applicant understands and has memorized rap sheet details, many of which confuse even attorneys.

C. CAREFULLY CONSIDER WHETHER AND HOW TO MENTION BACKGROUND CHECKS IN JOB APPLICATION FORMS.

Even mentioning a background check in a job posting can discourage potential applicants with records. The same is true of job application forms. Carefully consider whether and how to include any information about background checks in your application forms.

Nevertheless, it may be advisable to enhance transparency for the candidate by flagging legal requirements (such as those imposed by statute or regulation) in job application forms, especially if the applicant might be able to take proactive steps to increase their chances of overcoming any legal hurdles. The purpose of including this information should be to benefit the applicant, so limit information to what is easily understandable and won't deter most people with records from applying. With that in mind, one best practice is to precede any information about legally required background checks with an affirmative statement that encourages people with records to apply. An example is provided in Appendix 2.



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4. STEP FOUR: IMPLEMENT A FAIRER AND MORE TRANSPARENT CANDIDATE SELECTION AND SCREENING PROCESS.

Step Four of this toolkit details several ways to make your candidate selection process fair and transparent, beyond adjusting job application forms and delaying background checks:

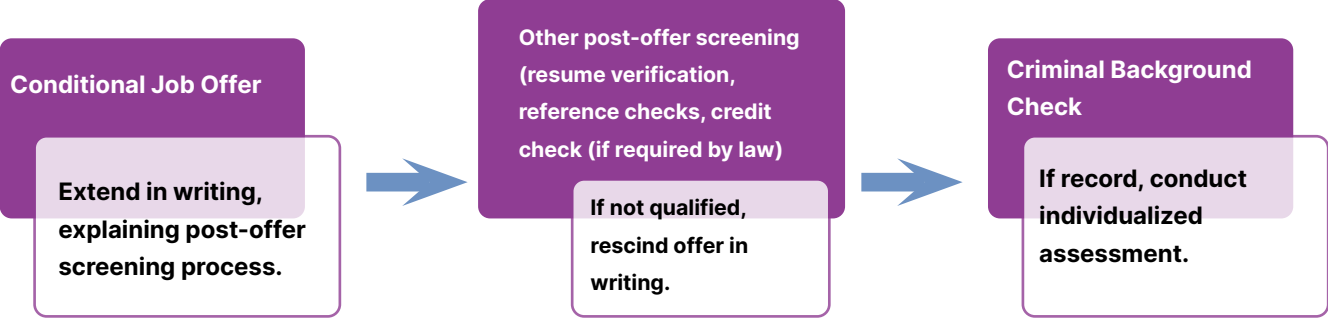
- A. Enhance transparency of the hiring process and fairness of the interview.**
- B. Extend a conditional job offer in writing, making clear upon what the offer is conditioned.**
- C. Avoid overly strict resume verification and make clear how requested information may be used to disqualify applicants.**
- D. Clearly inform candidates about the criminal background check process and require only necessary information.**
- E. Share background check information on a need-to-know basis only.**

A. ENHANCE TRANSPARENCY OF THE HIRING PROCESS AND FAIRNESS OF THE INTERVIEW.

Train staff to affirmatively inform candidates that the company will not seek information about the applicant's criminal background on application forms or during interviews. Even if not questioned about it, a candidate may inadvertently disclose information about their arrest or conviction record during an interview, or they may choose to discuss it because their conviction history is an integral part of their personal story. Staff should avoid asking probing follow-up questions about the person's past offense or conviction history. Instead, advise interviewers to politely remind the applicant that they are not required to disclose information about their conviction history and that hiring staff will not consider the past record until after a conditional job offer.²³

B. EXTEND A CONDITIONAL JOB OFFER IN WRITING, MAKING CLEAR UPON WHAT THE OFFER IS CONDITIONED.

Strong fair chance hiring policies delay criminal background checks until after a conditional offer. Delaying such screening allows candidate selection to be based on qualifications and insulated from the stigma of a record. At large financial institutions, post-offer screening can involve several processes in addition to criminal background checks. Resume verification, reference checks, and legally mandated credit checks should be isolated from one another and from criminal background checks. Moreover, a criminal background check should not be conducted until after the applicant has cleared other hurdles and is deemed otherwise qualified.



Even if your company does not isolate the criminal background check from other post-offer screening, be sure to make clear to the applicant what will happen when and why. An important part of a transparent hiring process is to communicate the conditional job offer to the selected candidate in writing, making clear upon what the offer is conditioned, such as a criminal background check or other screening. That notice should make clear how the candidate can expect any post-offer screening to proceed, on what timeline, and what type of information might create the basis for rescinding the offer.

C. AVOID OVERLY STRICT RESUME VERIFICATION AND MAKE CLEAR HOW REQUESTED INFORMATION MAY BE USED TO DISQUALIFY APPLICANTS.

Job applicants with records are especially likely to have difficulty verifying the details of past employment; thus a seemingly neutral resume verification policy may unfairly exclude people with records. It may be difficult for workers with records to recall and verify exact positions and dates of employment for a multitude of temporary positions, and individuals cannot obtain such details from past employers if the business lacks a responsive HR department or has ceased to exist. Furthermore, many individuals whose pasts include periods of unstable housing or incarceration have lost personal effects and documents along the way, including records of employment that they might have used to confirm employment details.²⁴ It may seem obvious to HR professionals that an applicant's prior employment and education on a resume must be exact. In reality, however, many people don't know the rules of the game and may guess at details if application forms do not clearly warn about the importance of being precise.

D. CLEARLY INFORM CANDIDATES ABOUT THE CRIMINAL BACKGROUND CHECK PROCESS AND REQUIRE ONLY NECESSARY INFORMATION.

Even when a criminal background check is delayed until after a conditional offer, the background check process will likely provoke stress among applicants with records. A few adjustments can ease the process. First, provide clear, written notice and obtain consent for the background check. Such notice and consent are legally mandated by the federal Fair Credit Reporting Act (FCRA)²⁵ for background checks conducted by commercial screening companies. Employers must clearly and conspicuously notify the applicant of an upcoming background check in a stand-alone written form and obtain written consent. Even if the background checks used by your company are not regulated by FCRA, clear notice and consent show that you value the applicant's agency.

Second, provide full information about what the background check process will entail and its anticipated timeline.

Third, limit what information and documents you request from the applicant. Do not request any written explanation or supporting documentation (such as court records) for the applicant's conviction(s) until *after* your company has preliminarily determined that the conviction is job related and potentially disqualifying. Providing explanations and court records is stressful, expensive, and entirely unnecessary if the conviction is not job related and the applicant's offer is unlikely to be rescinded based on that conviction.

E. SHARE BACKGROUND CHECK INFORMATION ON A NEED-TO-KNOW BASIS ONLY.

Set new employees up for success by keeping background check results within as small a circle as possible and making clear to hired individuals that record information will be kept confidential. Such records should be kept confidential within HR and shared with only those individuals essential to deciding whether to rescind an offer. Even the hiring manager should be notified only if necessary. After determining which employees should have access to record information, adequately train all such employees to interpret background check reports. Rap sheets are difficult to read, even for attorneys. For example, the untrained eye may misinterpret a single incident as numerous events because of redundant charges.



Anticipate Common Applicant Questions about the Background Check Process

- **How long will review take?**
- **What information or documents might the applicant be asked to provide and when?**
- **Who within the company will learn about the applicant's record?**
- **How and when should the applicant expect to learn if their offer is rescinded?**
- **Whom might the applicant contact if they don't hear back or have questions?**

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5. STEP FIVE: ASSIST CANDIDATES IN OVERCOMING LEGAL HURDLES WHEN CONDUCTING LEGALLY REQUIRED BACKGROUND CHECKS.

After extending a conditional offer to your selected candidate, you will likely need to conduct a background check, which federal law requires for most employees in the financial services industry. Step Five of this toolkit suggests three ways to minimize the exclusionary effects of these laws and assist the individuals whose work opportunities are limited by them:

- A. Conduct legally required background checks only to the extent required by law.**
- B. Offer to sponsor the candidate's application for consent from the Federal Deposit Insurance Corporation or other relevant agency.**
- C. Provide the applicant with information about legal prohibitions and refer them to legal assistance.**

A. CONDUCT LEGALLY REQUIRED BACKGROUND CHECKS ONLY TO THE EXTENT REQUIRED BY LAW.

Complying with laws that prohibit the employment of people with certain conviction records is necessary, but equally important is ensuring that job applicants with records are not unnecessarily excluded when the law does not mandate it. First, legal exclusions should be applied to only the extent required by law. Some federal screening requirements apply to all positions. Others, however, apply to only certain positions with specific responsibilities. A chart explaining the limited applicability of four of the federal laws relevant to the financial services industry is provided in Appendix 1.

Second, even if a federally imposed background check requirement is applicable to a specific position, not every conviction record disqualifies candidates from that position. A chart providing information about the screening requirements imposed by four of the federal laws relevant to the financial services industry is provided in Appendix 1. Whether a particular conviction record is disqualifying or requires consent from a regulatory body can be confusing. Contact the relevant agency for advice if your team is uncertain.²⁶

B. OFFER TO SPONSOR THE CANDIDATE’S APPLICATION FOR CONSENT FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION OR OTHER RELEVANT AGENCY.

Several federal laws governing the financial services industry allow employment of people with certain conviction records if they first receive consent from the appropriate agency.²⁷ This subsection focuses on applications for consent from the Federal Deposit Insurance Corporation (FDIC) because they are most broadly applicable.²⁸ Section 19 of the Federal Deposit Insurance Act applies to all employees at federally insured depository institutions and requires FDIC consent for a variety of “covered offenses” (see chart in Appendix 1). The FDIC provides two avenues to seek consent: (1) via an employer-sponsored application, or (2) via an individual waiver application if employer sponsorship cannot be obtained.

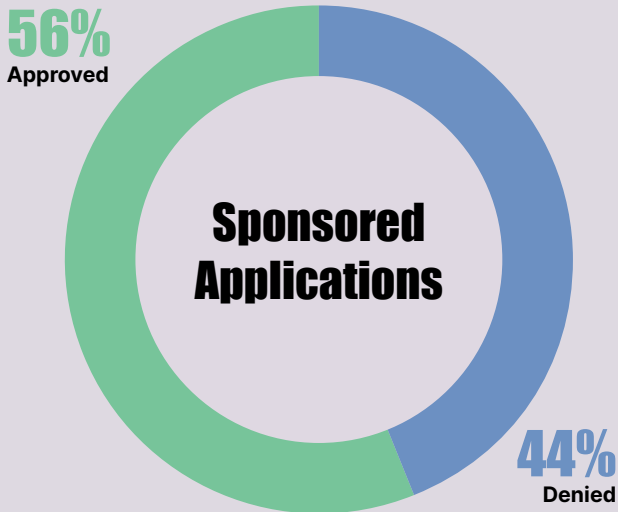
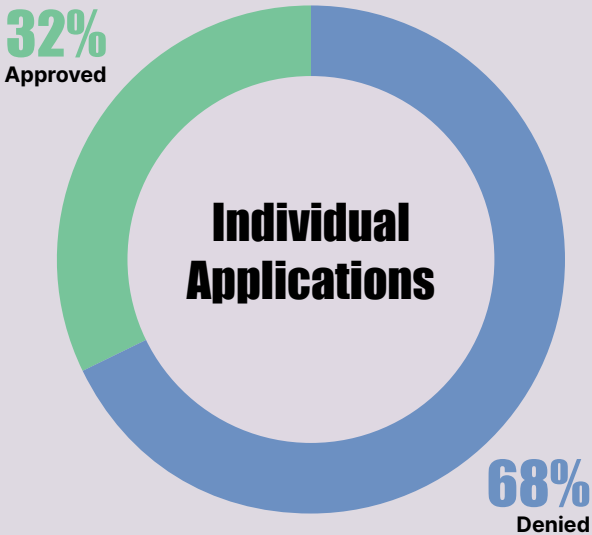
Employer sponsorship of applications for FDIC consent is crucial because sponsored applications are much more successful. In 2018, 56 percent of sponsored applications were approved as compared with only 32 percent of individual waiver applications.²⁹ Individual waiver applications require the FDIC to approve the applicant to work at any financial institution in *any role*, including as a director or owner. When applications are sponsored, FDIC scrutiny is lessened because the applicant seeks to work in a specific role and employer knowledge of the applicant’s record is confirmed.

In addition to being more successful, employer-sponsored applications are also approved much more quickly. All applications are reviewed by one of the FDIC’s eight regional offices. While scrutiny of employer-sponsored applications stops there, individual waiver applications must also be reviewed by the national office. As a result, the average time to review a sponsored application in 2018 was less than half the time required for individual waiver applications.³⁰

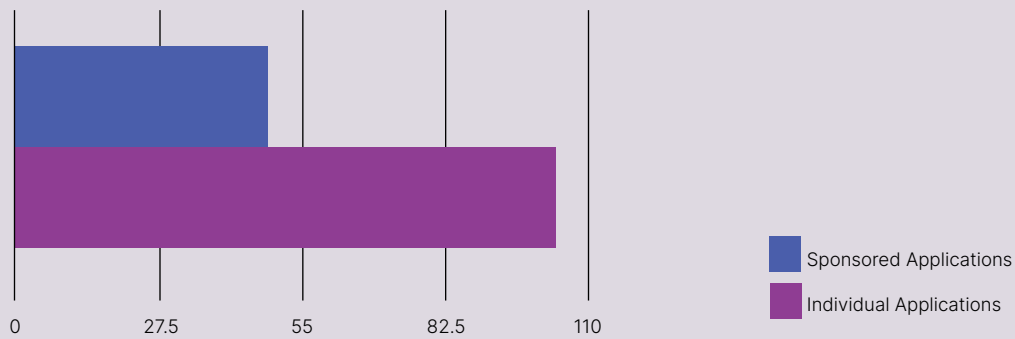
Sponsoring an FDIC consent application requires minimal effort by an employer. The employer portion of the current application requires merely: (1) name of the company, (2) date, (3) address, (4) position in which the applicant will work, and (5) a brief description of the duties and responsibilities of the position. By signing the application form, the employer confirms only awareness of the individual's conviction record, desire to hire the individual, and awareness of the need to obtain a fidelity bond for the individual.

C. PROVIDE THE APPLICANT WITH INFORMATION ABOUT LEGAL PROHIBITIONS AND REFER THEM TO LEGAL ASSISTANCE.

Your company can support candidates with records by providing information. If any legal barrier applies to an applicant, inform them about the specific statutory or regulatory prohibition and whether they may overcome the barrier by seeking consent from the FDIC or another agency. Referring them to a local legal services organization is also advisable. An attorney can help them understand their options and, if relevant, apply for consent from the FDIC or other agency. Sometimes, an individual may be eligible for expungement or record sealing that might render them eligible to work for a financial services company in the future.³¹



Average # Days to Review Applications (2018 Data)



06 6. STEP SIX: LIMIT ADDITIONAL RECORD SCREENING AND DISCRETIONARY EXCLUSIONS.

After determining that candidates are not legally barred from working in the position sought at your institution, additional screening is likely unnecessary. However, if your institution expends additional time and funds on further screening qualified applicants for some or all positions, Step Six of this toolkit recommends three ways to enhance fairness in those processes:

- A. Clearly communicate fair chance expectations to background screeners.**
- B. Limit the scope of what records you consider.**
- C. Forego automatic exclusions for thorough, written assessments of job-relatedness.**

A. CLEARLY COMMUNICATE FAIR CHANCE EXPECTATIONS TO BACKGROUND SCREENERS.

Historically, background screening personnel may have viewed their role as searching for any reason *not* to hire a person because of their record. But such a mindset will quickly undermine any efforts at fair chance hiring. The job performance expectations for background screening personnel must now extend in both directions. Not only must they ensure that new hires are fit, but they must ensure that qualified applicants are not unnecessarily excluded from working at your company. Make clear to such personnel and their supervisors that the company's goal is to avoid rescinding job offers based on conviction history unless absolutely necessary. The next two subsections explore how to responsibly limit the discretion of background screeners to achieve that goal.

B. LIMIT THE SCOPE OF WHAT RECORDS YOU CONSIDER.

While laws may require you to examine all or most records when screening for legal prohibitions against employment, your company has full discretion over which records to consider when deciding whether to rescind a conditional offer when it is not mandated by law. Certain categories of records should never be the basis for disqualification. Without clear instructions, background screeners may rescind job offers based on allegations or minor offenses that are not relevant to job performance.³² Your company should also foreclose the possibility that a record could indefinitely hold back a qualified worker.³³ Instruct background screeners to look back no longer than five years and disregard older offenses.³⁴

Background screeners should not consider certain categories of records:

- × Non-conviction records (arrests, charges, diversion programs)
- × Sealed, expunged, dismissed, or pardoned records
- × Juvenile records
- × Infractions and other petty offenses
- × Misdemeanors
- × Felonies that occurred more than five years ago

C. FOREGO AUTOMATIC EXCLUSIONS FOR THOROUGH, WRITTEN ASSESSMENTS OF JOB RELATEDNESS AND AN INDIVIDUAL ASSESSMENT.

If the background check report reveals a recent felony conviction that has not been sealed or expunged, your background screeners should next assess the job-relatedness of the conviction. Consistent with federal antidiscrimination law, you should not reject a candidate based on a past conviction unless that offense is directly related to the regular duties of the job and would impact performance.

Title VII of the Civil Rights Act of 1964 prohibits race discrimination in employment. Because employers' use of criminal background checks can have a "disparate impact" on Black, Latinx, and Indigenous people, record-based exclusions must be "job related for the position in question and consistent with business necessity."³⁵ Consistent with federal case law, the Equal Employment Opportunity Commission (EEOC) instructs employers to consider at least three factors when determining whether an offense is job related:

1. The nature and gravity of the offense;
2. The amount of time that has passed; and
3. The nature of the job sought.

Set clear expectations for your team that a candidate should not be excluded unless absolutely necessary; applicants should be presumed fit unless evidence demonstrates otherwise. You can also further interrogate each of the above EEOC factors with your team, as described below, and require them to explain their reasoning in writing when they find that a conviction is job related.

1) Nature of the Offense

A true job-relatedness analysis will interrogate the specific elements of an offense and not rely on rigid matrixes or categorizations. Train your screening team to not allow the stigma of certain labels—such as "felony," "violent," or "sex" offense—to lead decision-making.³⁶ As one extreme example, littering can amount to a felony in certain jurisdictions.³⁷ A good faith individualized

assessment is especially important when an offense is highly susceptible to stigmatization and likely to evoke biases and prejudices. The nature of the offense matters only insofar as it relates to the specific job duties, so the analysis should not stop at step one.

2) Amount of Time Passed Since the Offense

When considering time elapsed as a component of job-relatedness, the time since the offense is more relevant to the job than the time since either release from incarceration or completion of the sentence. Relying on the latter in your hiring practices will amplify existing racism in the criminal legal system because, compared to similarly situated white people, Black and Latinx people are sentenced to longer terms of incarceration and probation, serve more time before being paroled, and are then kept on parole for longer periods.³⁸ Moreover, sometimes a sentence is not considered complete until an individual has finished paying unfair fines and fees imposed by the criminal legal system.

3) Nature of the Job

Too often, an employer's job-relatedness analysis ends before reaching the third prong: considering the nature of the job. But careful consideration of the typical duties and responsibilities of the relevant job is a crucial step. One way to help ensure a robust job-relatedness analysis is to provide screening staff with clear instructions on how to determine whether a conviction is job related. Specific questions to guide analysis will enhance the fairness and consistency of your staff's decisions:

- Does the offense have a direct and specific negative bearing on the person's ability to perform the duties or responsibilities necessarily related to the employment position?
- Does the position offer the opportunity for the same or a similar offense to occur?
- Is it likely that circumstances leading to the offense will recur?³⁹

Requiring your staff to commit their assessment of job-relatedness to writing will help to ensure a robust analysis. It will also help protect against liability under antidiscrimination and fair chance hiring laws. In Appendix 2, you can find a short, sample form to help guide and record this individualized job-relatedness analysis.

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7. STEP SEVEN: PROVIDE CLEAR WRITTEN NOTICE AND SUFFICIENT OPPORTUNITY TO RESPOND TO BACKGROUND CHECK RESULTS.

The fair chance hiring process is not complete as soon as you determine that a candidate's conviction history is job related or even that a law prohibits you from hiring an individual with a conviction that appears on the candidate's record. Step Seven describes three necessary components to providing the candidate with adequate notice and a chance to respond and to completing an individualized assessment:

- A. Provide clear written notice of intent to rescind the conditional offer, an explanation, and a copy of background check report.**
- B. Invite submission of additional information and provide sufficient opportunity to respond.**
- C. Review additional information as part of an individualized assessment and rescind offer only if absolutely necessary.**

A. PROVIDE CLEAR WRITTEN NOTICE OF INTENT TO RESCIND THE CONDITIONAL OFFER, EXPLANATION, AND A COPY OF THE BACKGROUND CHECK REPORT.

Even if job related, no conviction record should be automatically disqualifying. Instead, you should inform the applicant in writing of your initial determination and reasoning and invite the applicant to supply additional information on a clear, reasonable timeline. Such written preliminary notice to the applicant is required by state and local fair chance hiring laws across the country. A pre-adverse action notice is also required under the Fair Credit Reporting Act for employers that receive background check reports from consumer reporting agencies.⁴⁰ As a part of your written notice, include a copy of the background check report and clearly specify which convictions you deem job related and why, explaining how those offenses are directly related to the anticipated job duties.

Background check reports can be rife with errors or inaccuracies.⁴¹ The Consumer Financial Protection Bureau, which enforces the Truth in Lending Act, explains that financial services employers “can and should permit an individual to provide additional evidence to demonstrate that the individual meets the standard [under the Act]” because criminal background checks frequently include errors.⁴² Appendix 2 includes a sample preliminary notice that you can fill in and provide to candidates whose offers you might rescind.

B. INVITE SUBMISSION OF ADDITIONAL INFORMATION AND PROVIDE SUFFICIENT TIME TO RESPOND.

After notifying the candidate about your preliminary decision to rescind the job offer because of a recent, job-related conviction, invite the candidate to dispute the accuracy of the record, if relevant, and submit mitigating information or evidence of rehabilitation to demonstrate why the disqualification should not apply to his or her individual circumstances. Suggesting what information the candidate might supply to assist your individualized assessment can be helpful, but do not *require* submission of record-related documents. Collecting documentation can be burdensome, expensive, and time consuming. Of special import, never request police reports, which can be unreliable sources of information.⁴³ Examples of information you might suggest the candidate voluntarily provide are listed in Appendix 2. Applicants should also be given adequate time—at least two weeks—to gather information and respond to your notice.

C. REVIEW ADDITIONAL INFORMATION AS PART OF AN INDIVIDUALIZED ASSESSMENT AND RESCIND OFFER ONLY IF ABSOLUTELY NECESSARY.

After receiving a response from the applicant, carefully complete the individualized assessment by reviewing the additional information and explanation provided. If the candidate does not provide supplemental information, perform as individualized an assessment as possible without that information.

An applicant may very well respond by pointing out inaccuracies in the background check report. Such errors are extremely common.

Applicants may also respond with mitigating information or evidence of rehabilitation to demonstrate why the disqualification should not apply to their individual circumstances. When assessing this information, consider at least the following factors, which are recommended by the Equal Employment Opportunity Commission (EEOC):

- The facts and circumstances of each offense;
- The number of job-related offenses for which the individual was convicted and whether they stem from a single or multiple incidents;
- Evidence of work history, before or after conviction;
- Rehabilitation efforts, such as education and training, including any educational, vocational, and substance abuse or behavioral health interventions completed while incarcerated; and
- Employment or character references and any other information regarding fitness for the particular position.

After conducting a truly individualized assessment, you should find that many job applicants with records deserve the job opportunity. If you decide to rescind a job offer because of the applicant's record, notify the candidate in writing and explain the reasons for your decision. In addition to enhancing fairness and transparency, such written notice is required by certain state and local fair chance hiring laws.⁴⁴ Appendix 2 includes a sample notice of a final decision to rescind a job offer that you can fill in and provide to any candidates whose offers you rescind.

CONCLUSION

Workers with arrest and conviction records need and deserve reliable access to income through employment. Employer policies and some unnecessary legal restrictions, however, continue to lock many people with records out of safe, good-paying, stable jobs. Following the above steps to improve your company's employment practices has the potential to expand opportunities in financial services for people with records, who are disproportionately Black, Latinx, and Indigenous because of racism in the criminal legal system.

Human resources staff play an outsized role in making fair chance hiring a reality within their companies. By implementing the above steps, you can help lead your company in its transformation into a more equitable workplace. And, as part of an influential sector, your company can both expand career opportunities for people with records and encourage other employers to follow that example.



APPENDICES



1. FEDERAL LAWS

GOVERNING HIRING

IN FINANCIAL SERVICES

The following chart explains the limited applicability of four of the federal laws that are relevant to hiring in the financial services industry. In particular, financial services employers must take the time to determine which positions will undertake the relevant job duties pursuant to the Truth in Lending Act. Tailoring the Act's screening requirements to only those applicants who will act as loan originators in relevant transactions is especially important because, as described below, the Act imposes mandatory exclusions based on non-job-related convictions.

Law	Relevant Employee Positions
Federal Deposit Insurance Act	All positions with a federally insured depository institution.
Federal Credit Union Act	All positions with a federally insured credit union.
Truth in Lending Act	<p>Loan originator in consumer credit transactions secured by a dwelling.</p> <p>Excludes employees performing purely administrative or clerical tasks on behalf of a loan originator. (Loan originator is defined as a person who takes an application, offers, arranges, assists a consumer in obtaining or applying to obtain, negotiates, or otherwise obtains or makes an extension of consumer credit for another person.)</p>
Securities Exchange Act of 1934	<p>Most employees at regulated broker-dealer firms, regardless of whether required to register with the Financial Industry Regulatory Authority (FINRA).</p> <p>Excludes employees who do not</p> <ul style="list-style-type: none"> a. sell securities; b. regularly have access to the keeping, handling, or processing of securities, monies, or the original books and records relating to securities or monies; or c. directly supervise employees who do (i) or (ii).

The chart below provides information about the screening requirements in four of the federal laws that are relevant to hiring in the financial services industry. Crucially, your background screening staff must be trained on which conviction records are not disqualifying and which disqualifying records may be overcome by obtaining consent from the relevant regulatory body.

Law	Conviction Screening Requirements	Major Exceptions
<p>Federal Deposit Insurance Act, Section 19</p>	<p>Must receive consent from Federal Deposit Insurance Corporation (FDIC) before hiring someone who has been convicted as an adult (or entered pretrial diversion) for an offense involving dishonesty, breach of trust, or money laundering (“covered offense”).</p> <p>A covered offense:</p> <ul style="list-style-type: none"> • Does not include offenses that were expunged or sealed. • Includes convictions for the illegal sale or manufacture, but not possession, of controlled substances. <p>No consent possible within ten years of conviction of an offense listed in Section 19(a)(2), all of which are specific finance-related offenses.</p>	<p>Consent automatically granted for up to two “de minimis” convictions, which include most offenses:</p> <ul style="list-style-type: none"> • punishable by no more than a \$2,500 fine and one year of imprisonment and for which no more than three days of jail time were served*; • for writing “bad” checks for no more than \$1,000; • simple theft of no more than \$1,000*; or • for creating or using a fake ID by a person under 21.* <p>* Convicted at least three years prior (18 months prior if 21 or younger when offense occurred).</p>
<p>Federal Credit Union Act, Section 205(d)</p>	<p>Must receive consent from National Credit Union Administration (NCUA) before hiring someone who has been convicted as an adult (or entered pretrial diversion) for an offense involving dishonesty or breach of trust (“covered offense”).</p> <p>A covered offense:</p> <ul style="list-style-type: none"> • Does not include offenses that were “completely expunged.” • Includes controlled substances offenses. <p>No consent possible within ten years of conviction of an offense listed in Section 205(d)(2), all of which are specific finance-related offenses.</p>	<p>Consent automatically granted for one “de minimis” conviction, which includes most offenses:</p> <ul style="list-style-type: none"> • punishable by no more than a \$2,500 fine and one year of imprisonment and for which no more than three days of jail time were served†; • for writing “bad” checks for no more than \$1,000; • simple theft of no more than \$1,000†; • for creating or using a fake ID by a person under 21†; or • for misdemeanor drug possession.† <p>†Convicted at least five years prior (30 months prior if 21 or younger when offense occurred).</p>

Law**Conviction Screening Requirements****Major Exceptions****Truth in Lending Act**

Loan originator organizations may not employ in relevant positions (see above) any individual who has

a) within the preceding seven years, been convicted of any felony; or

b) ever been convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering.

Employment not prohibited

i. based on convictions for which employee received consent from FDIC or NCUA (as described above); and

ii. on the basis of convictions that have been expunged or pardoned.

Securities Exchange Act of 1934, Section 3(a)(39)

FINRA-regulated entities may not employ individuals who have been convicted within ten years of any felony and certain misdemeanors, including those involving securities, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, embezzlement, concealment of assets, and fraud.

May employ the person if the firm sponsors the association of the disqualified person (via Form MC-400) and both FINRA and the SEC approve. (Shorter review process if individual will be employed in a purely clerical/ministerial capacity.)

2. SAMPLE EMPLOYER FORMS AND NOTICES

A. Sample affirmative statement for job advertisements and application forms

How to Use: Below is an example of affirmative language about hiring people with records your company can include on job announcements and application forms. As explained in Step Two of this toolkit, such a statement will help counteract the assumption by people with records that they will not be fairly considered by employers.



People with conviction records are encouraged to apply.

We will support candidates with conviction records in addressing legal barriers to employment. This position is subject to the requirements of Section 19 of the Federal Deposit Insurance Act. You may wish to learn more about your options by contacting your regional Federal Deposit Insurance Corporation (FDIC) office (<https://www.fdic.gov/regulations/laws/forms/section19.html>). We also encourage you to contact a local legal aid organization or your attorney for more information about the FDIC waiver process and to learn about opportunities to expunge or seal your record.

B. Sample conditional offer notice

How to Use: Below is an example of a conditional offer notice to an applicant. You should provide this notice to a job applicant after selecting them for hire but before conducting a criminal background check. As explained in Steps Three and Four of this toolkit, delaying the background check and enhancing transparency of the process will build trust among potential future employees.

Re: Conditional Offer of Employment & Notice of Conviction Background Check

Dear [APPLICANT]:

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 this job offer because of your conviction history.

This process should take approximately [INSERT TIME ESTIMATE] after we receive your authorization for a background check. If you do not hear from us within [INSERT TIME ESTIMATE], please reach out to the individual listed below.

This position is subject to the requirements of Section 19 of the Federal Deposit Insurance Act. That law limits our ability to hire people with certain conviction histories. If that law impacts our ability to hire you, we will notify you and let you know if and how the restrictions might be waived. In the meantime, you may wish to learn more by contacting an attorney or local legal aid organization and your regional Federal Deposit Insurance Corporation office at [INSERT APPLICABLE CONTACT INFORMATION FROM <https://www.fdic.gov/regulations/laws/forms/section19.html>].

If the law does not prohibit us from hiring you, we will revoke your job offer only if a past conviction is recent and 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 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 two weeks 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 revoke this job offer.

Sincerely,

[INSERT NAME AND CONTACT INFORMATION FOR RELEVANT INDIVIDUAL]

Enclosure: Authorization for Background Check

C. Sample individualized job-relatedness assessment form

How to Use: Below is an example of a form to help guide and record the individualized job-relatedness analysis. Your screening staff should begin with the presumption that an offense is not job related and then use this form to articulate how the link between specific aspects of the candidate's conviction history and the specific duties of the job combine to create an unreasonable risk. Retain each completed form for your records and attach the conviction history report. For more information, review Step Six, Part C of the toolkit.

Assessment Information:

Applicant name: [INSERT NAME]

Position: [INSERT POSITION OFFERED]

Date of conditional offer: [INSERT DATE]

Date of conviction history report: [INSERT DATE]

Date of assessment: [INSERT DATE]

Assessment performed by: [INSERT NAME OF SCREENING TEAM MEMBER]

Job-Relatedness Assessment:

1. The specific duties and responsibilities of the job are: [LIST DUTIES]
2. The conviction(s) of concern are: [LIST CONVICTION(S) AND ATTACH CONVICTION HISTORY REPORT] How long ago the conduct occurred that led to the conviction: [INSERT AMOUNT OF TIME PASSED SINCE THE OFFENSE].
3. Activities since the offense, such as work experience, job training, rehabilitation, education, community service, etc.: [LIST ACTIVITIES CURRENTLY KNOWN FROM RESUME, JOB APPLICATION FORMS, AND INTERVIEW NOTES]
4. Does the offense have a direct and specific negative bearing on the applicant's ability to perform the duties or responsibilities necessarily related to the position? Yes No
If yes, explain: [DESCRIBE REASONING].
5. Does the position offer the opportunity for the same or a similar offense to occur?
 Yes No
If yes, explain: [DESCRIBE REASONING].
6. Is it likely that circumstances leading to the offense will recur? Yes No
If yes, explain: [DESCRIBE REASONING].
7. [IF MORE THAN ONE CONVICTION OF CONCERN, REPEAT #3-#7 SEPARATELY FOR EACH CONVICTION]

Reasoning:

Based on the factors above, we are considering rescinding our offer of employment because [DESCRIBE THE LINK BETWEEN THE SPECIFIC CONVICTIONS OF CONCERN AND THE RISKS INHERENT IN THE DUTIES OF THE EMPLOYMENT POSITION].

D. Sample letter preliminarily informing applicant of intent to rescind offer

How to Use: Below is an example of a notice to the applicant expressing your preliminary decision to revoke the conditional job offer because of the applicant's conviction history. You should provide this notice to a job applicant if the reason for rescinding the job offer is discretionary. If there is a mandatory legal basis to rescind the offer, this notice should be adjusted to explain the relevant law and invite the applicant to point out any relevant inaccuracies in the conviction history report. Please consult Step Seven of this toolkit for more information about this part of the fair chance hiring process.

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

Dear [APPLICANT]:

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

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

A copy of your conviction history report is attached to this letter. More information about our concerns is included in "Our Assessment of Job-Relatedness" below.

We have not considered any of the following records:

- × Non-conviction records (arrests, charges, diversion programs)
- × Sealed, expunged, dismissed, or pardoned records
- × Juvenile records
- × Infractions and other petty offenses
- × Misdemeanors
- × Felonies that occurred more than five years ago

Your Right to Respond:

You may respond to this letter before our decision to revoke the job offer becomes final. Within two weeks, you may send us:

- (A) Evidence of rehabilitation or mitigating circumstances
- (B) Information challenging the accuracy of the conviction history listed above

Please send any additional information you would like us to consider to: [INSERT 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);
- 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;
- 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 will review the information you submit and conduct an 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 Assessment of Job-Relatedness:

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

We considered all of 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 SINCE THE OFFENSE].
3. The specific duties and responsibilities of the position of [INSERT POSITION], which are: [LIST JOB DUTIES].

We believe your conviction record lessens your ability to perform the job duties because:

[INSERT EXPLANATION].

Sincerely,

[INSERT NAME AND CONTACT INFORMATION FOR RELEVANT INDIVIDUAL]

Enclosure: Copy of Conviction History Report

E. Sample individualized assessment form

How to Use: Below is an example of a form to help guide and record the individualized assessment. Your screening staff should complete this form after reviewing information submitted by the applicant in response to the preliminary notice. Retain each completed form for your records. As explained in Steps Six and Seven of this toolkit, the context gained from soliciting additional information through an individualized assessment will reduce the likelihood of unnecessarily excluding a qualified worker.

Assessment Information:

Applicant name: [INSERT NAME]

Position: [INSERT POSITION OFFERED]

Date of conditional offer: [INSERT DATE]

Date of conviction history report: [INSERT DATE]

Date of assessment: [INSERT DATE]

Assessment performed by: [INSERT NAME OF SCREENING TEAM MEMBER]

Report Accuracy

Was there an error in the conviction history report? Yes No

If yes, describe the error: [INSERT DESCRIPTION AND ATTACH CONVICTION HISTORY REPORT]

Evidence of Rehabilitation and Good Conduct:

The applicant provided the following evidence of rehabilitation (which may include, but is not limited to, documents, letters, or other information indicating that the applicant attended school, job training, counseling, treatment, or is involved with the community): [LIST INFORMATION PROVIDED]

Reassessment of Job-Relatedness:

1. The specific duties and responsibilities of the job are: [LIST DUTIES]
2. The conviction(s) of concern are: [LIST CONVICTION(S) AND ATTACH CONVICTION HISTORY REPORT]
3. How long ago the conduct occurred that led to the conviction: [INSERT AMOUNT OF TIME PASSED SINCE THE OFFENSE].
4. Activities since the offense of conviction, such as work experience, job training, rehabilitation, education, community service, etc.: [LIST ACTIVITIES LEARNED FROM RESUME, JOB APPLICATION FORMS, INTERVIEW NOTES, AND EVIDENCE OF REHABILITATION]

5. Does the offense have a direct and specific negative bearing on the applicant's ability to perform the duties or responsibilities necessarily related to the position?
 Yes No
If yes, explain: [DESCRIBE REASONING].

6. Does the position offer the opportunity for the same or a similar offense to occur?
 Yes No
If yes, explain: [DESCRIBE REASONING].

7. Is it likely that circumstances leading to the offense will recur?
 Yes No
If yes, explain: [DESCRIBE REASONING].

[IF MORE THAN ONE CONVICTION OF CONCERN, REPEAT #3-#7 SEPARATELY FOR EACH CONVICTION]

Reasoning:

Based on the factors above, we are rescinding our offer of employment because [DESCRIBE THE LINK BETWEEN THE SPECIFIC CONVICTIONS OF CONCERN AND THE RISKS INHERENT IN THE DUTIES OF THE EMPLOYMENT POSITION].

F. Sample letter revoking conditional offer

How to Use: Below is an example of a notice to the applicant revoking the conditional job offer because of the applicant's conviction history. You should provide this notice to a job applicant after providing the above preliminary notice, reviewing information provided by the applicant, and conducting an individualized assessment. Please consult Step Seven of this toolkit for more information about this part of the fair chance hiring process.

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

Dear [APPLICANT]:

We are following up with regard to our letter dated [INSERT DATE], which notified you of our initial decision to revoke the conditional job offer.

[CHECK ONE OPTION]

- 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 PROVIDED BY APPLICANT]

After reviewing the information you submitted, we have determined that there [CHECK ONE OPTION] was was not one or more significant errors on your conviction history report. [DESCRIBE ERROR(S), IF ANY]

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

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

We believe your conviction record lessens your ability to perform the job duties because:
[INSERT SEPARATE EXPLANATION FOR EACH CONVICTION OF CONCERN].

Your Right to File a Complaint:

If you believe your rights under the [LIST STATE/LOCAL PRIVATE-SECTOR FAIR CHANCE LAW] have been violated during this job application process, you have the right to file a complaint with [LIST ENFORCEMENT AGENCY]. For more information, [PROVIDE CONTACT INFORMATION FOR AGENCY].

Sincerely,

[INSERT NAME AND CONTACT INFORMATION FOR RELEVANT INDIVIDUAL]

3. References

1. Alex Hickey, *8 Charts that Explore Racial Disparities in the Banking Industry*, Morning Brew, May 18, 2021, <https://www.morningbrew.com/daily/stories/2021/05/18/8-charts-explore-racial-disparities-banking-industry> (synthesizing 2018 EEO-1 data from the EEOC).
2. Prison Pol’y Initiative, *Racial Disparities in Incarceration Rates*, 2019 (2021), https://www.prisonpolicy.org/graphs/incarceration_byrace_2019.html.
3. Nat’l Emp’t Law Proj. & Safer Found., *A Healthcare Employer Guide to Hiring People with Arrest and Conviction Records* (2016), <https://www.nelp.org/wp-content/uploads/NELP-Safer-Toolkit-Healthcare-Employer-Guide-Hiring-People-with-Arrest-Conviction-Records.pdf>.
4. Letter from Marc LeForestier, Gen. Couns., Cal. Cmty. Colls., to Cal. Cmty. Coll. Dist. Hum. Res. Officers (Dec. 31, 2018), <https://www.cccco.edu/-/media/CCCCO-Website/About-Us/Divisions/Office-of-the-General-Counsel/Legal-Advisories/2018-12-31-Legal-Advisory-re-Use-of-Criminal-History-in-Hiring-Final> (providing guidance on use of criminal history records in hiring, which NELP helped develop).
5. Execs.’ Alliance for Boys & Men of Color, Formerly Incarcerated, Convicted People & Families Movement & Nat’l Emp’t Law Project, *Fair-Chance Hiring in Philanthropy* (2016), <https://www.nelp.org/publication/fair-chance-hiring-in-philanthropy-a-step-by-step-guide/>.
6. Safer Found. interview with “Jamar” (Jan. 28, 2021) (transcript on file with authors).
7. Video interview with Michelle Kuranty, Exec. Dir. & Global Head of Talent Acquisition Sourcing, JPMorgan Chase (Feb. 16, 2021) (transcript on file with authors) [hereinafter Kuranty Interview].
8. Binyamin Appelbaum, *Out of Trouble, but Criminal Records Keep Men Out of Work*, N.Y. Times (Feb. 28, 2015), <http://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keepmen-out-of-work.html> (citing Kaiser Family Found./N.Y. Times/CBS News Non-Employed Poll (Dec. 2014), <http://kff.org/other/poll-finding/kaiser-family-foundationnew-york-times-cbs-news-non-employed-poll>).
9. Vivian Giang, *Why Criminals Might Make Better Employees*, Business Insider (Dec. 4, 2012), <http://www.businessinsider.com/a-criminal-record-might-increase-productivity-2012-12>.
10. Jennifer Hickes Lundquist, et al., *Does a Criminal Past Predict Worker Performance? Evidence From One of America’s Largest Employers*, 96 Soc. Forces 1039 (2018), <https://academic.oup.com/sf/article-abstract/96/3/1039/4802355?redirectedFrom=fulltext>; Jordan Yadoo, *Ex-Cons May Outperform You in the Workplace*, Bloomberg Markets (May 5, 2016), <http://www.bloomberg.com/news/articles/2016-05-05/ex-cons-may-outperform-you-in-the-workplace> (summarizing the previously cited study).
11. Safer Found. interview with “Jamar” (Jan. 28, 2021) (transcript on file with authors).
12. Hickey, *supra* note 1.
13. Safer Found. interview with “Sylvia” (Feb. 5, 2021) (transcript on file with authors).
14. Kuranty Interview, *supra* note 7.
15. Video interview with Sharon Stevens, Talent Acquisition Cmty. Outreach Assoc. Sourcer, JPMorgan Chase (Feb. 16, 2021) (transcript on file with authors) [hereinafter Stevens Interview].

16. Kuranty Interview, *supra* note 7.
17. Stevens Interview, *supra* note 15.
18. Safer Found. interview with “Steven” (Feb. 9, 2021) (transcript on file with authors).
19. Safer Found. interview with “Tammika” (Jan. 29, 2021) (transcript on file with authors).
20. Eddie Ellis, Ctr. for Nuleadership on Urban Solutions, *An Open Letter to Our Friends on the Question of Language*, <https://static1.squarespace.com/static/58eb0522e6f2e1dfce591dee/t/596e3ef9bf629a2270909252/1500397309561/Open+Letter+On+The+Question+of+Language.pdf> (last visited Dec. 13, 2021).
21. Devah Pager, *The Mark of a Criminal Record*, 108 Am. J. Soc. 937 (2003), http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf.
22. Dallas Augustine, Noah Zatz & Naomi Sugie, UCLA Inst. for Res. on Labor & Emp’t, *Why Do Employers Discriminate Against People with Records? Stigma and the Case for Ban the Box* (2020), <https://irle.ucla.edu/publication/why-do-employers-discriminate-against-people-with-records-stigma-and-the-case-for-ban-the-box/>.
23. From a legal standpoint, some local private-sector ban-the-box laws mandate whether and how an employer may consider criminal history information disclosed during an interview. For example, if an applicant discloses their record to an employer in Portland, Oregon, the employer “must disregard that information and must take reasonable steps to prevent further disclosure or dissemination of the [a]pplicant’s [c]riminal [h]istory.” City of Portland, Oregon, “ADM-21.01 – Removing Barriers to Employment Administrative Rules” at RBE 2.02(3), <https://www.portland.gov/sites/default/files/2020-06/exhibit-a-amended-admin-rules-06-01-16.pdf> (last visited Oct. 13, 2021). Consult your legal team to determine whether your office is subject to such a law. While not a substitute for legal advice, NELP’s State & Local Ban-the-Box Guide includes information about private-sector fair chance laws across the country. Beth Avery & Han Lu, Nat’l Emp’t L. Project, *Ban the Box: U.S. Cities, Counties, and States Adopt Fair-Chance Policies to Advance Employment Opportunities for People with Past Convictions* 30 (2021), <https://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>.
24. Upon release from incarceration, individuals often lack even valid identification or access to a birth certificate and Social Security card. Council of State Gov’ts Just. Ctr., *State Identification: Reentry Strategies for State and Local Leaders* (2016), <https://csgjusticecenter.org/publications/state-identification-reentry-strategies-for-state-and-local-leaders/>.
25. Fair Credit Reporting Act, 15 U.S.C. § 1681. Some states have more stringent consumer protection laws governing this area, such as the California Investigative Consumer Reporting Agency Act.
26. Federal Deposit Insurance Corporation, <https://www.fdic.gov/regulations/laws/forms/section19.html> (eight regional offices); National Credit Union Administration, <https://www.ncua.gov/contact-us> (four regional offices); Consumer Financial Protection Bureau, <https://reginquiries.consumerfinance.gov/>; Financial Industry Regulatory Authority, <https://www.finra.org/rules-guidance/interpretive-questions>.
27. Please consult the chart in Appendix 1 for more information.

28. The National Credit Union Administration (NCUA) consent process largely mirrors that of the Federal Deposit Insurance Corporation (FDIC). See Exceptions to Employment Restrictions Under Section 205(d) of the Federal Credit Union Act (“Second Chance IRPS”), 84 Fed. Reg. 65907 (Dec. 2, 2019) (effective Jan. 2, 2020 as Interpretive Ruling and Policy Statement (IRPS) 19-1). Moreover, if FDIC or NCUA consent is obtained for a conviction, Truth in Lending Act prohibitions are also waived. See 12 C.F.R. § 1026.36(f)(3)(ii)(A)(2)(iii).

29. Letter from Alisa Colgrove, Gov’t Info. Specialist, FOIA/Privacy Act Group, Fed. Deposit Ins. Corp., to Lalita Clozel, Reporter, Wall St. J. 3 (Mar. 1, 2019) (on file with NELP) (responding to Ms. Clozel’s FOIA request).

30. *Id.*

31. Many people are unaware of or unable to access such options; for example, as little as 6.5% of eligible persons in Michigan cleared their conviction records within five years of becoming eligible. J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions*, 133 Harv. L. Rev. 2460 (2020), <https://harvardlawreview.org/2020/06/expungement-of-criminal-convictions-an-empirical-study/>; see also Colleen V. Chien, *America’s Paper Prisons: The Second Chance Gap*, 119 Mich. L. Rev. 519 (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3265335 (estimating that 20 to 30 million U.S. adults have a criminal record that they could partially or fully clear under current law).

32. At least one state, New Mexico, already disregards misdemeanors when conducting background checks for occupational licenses and public employment. See N.M. Stat. § 28-2-3(B) (2021).

33. Opportunities for record-clearing remain limited across the country, with some states (and the federal government) offering no expungement of convictions and allowing them to remain on a person’s record forever. See *50-State Comparison: Expungement, Sealing & Other Record Relief*, Collateral Consequences Res. Ctr., <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-judicial-expungement-sealing-and-set-aside-2/> (last updated Aug. 2022).

34. Looking back no further than five years is supported by academic research and aligns with emerging trends in law. One notable study concluded that, six or seven years after release, the likelihood of committing an offense was only marginally higher for a formerly incarcerated person than for the general population. Megan C. Kurlychek, et al., *Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?*, 5 *Criminology & Pub. Pol’y* 483, 483 (2006). More recent research concluded that, after a relatively short time, ranging from three to seven years for different offenses, the probability of a new arrest for an individual with a record fell below the probability for the general population. Alfred Blumstein & Kiminori Nakamura, *Extension of Current Estimates of Redemption Time* 37, 41 (2012), <https://www.ojp.gov/pdffiles1/nij/grants/240100.pdf>. Lookback limits are also a growing trend in state law and agency practice. For example, California law prohibits commercial background check companies from reporting convictions that occurred more than seven years prior. Cal. Civ. Code §§ 1786.10-.40. Somewhat similarly, regulations issued by the State of Washington state that job denials are not justified by business necessity unless the conviction relates to the job duties and less than ten years have passed. See Wash. Admin. Code § 162-12-140.

35. 42 U.S.C. § 2000e-2(k)(1)(A)(i).

36. Offenses involving physical violence and sex are not categories for which an individual needs FDIC permission to work at an insured institution, and rightly so—such offenses do not categorically relate to banking or the financial health of consumers. Furthermore, the circumstances surrounding such offenses are often extremely personal and especially unlikely to recur at work. In fact, homicide and sex offenses have among the lowest recidivism rates. Just. Pol’y Inst., *Defining Violence: Reducing Incarceration by Rethinking America’s Approach to Violence* 3-4, 6-8, 14-15 (Aug. 2016), https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/jpi_definingviolence_final_report_9.7.2016.pdf.

37. See, e.g., Fla. Stat. § 403.413(6)(c) (providing that certain littering activity can amount to “a felony of the third degree”); Anthony Brasfield, *Fla. Man, Charged After Releasing Balloons Into Sky, Report Says*, CBS News, Feb. 25, 2013, <https://www.cbsnews.com/news/anthony-brasfield-fla-man-charged-after-releasing-balloons-into-sky-report-says/> (reporting on a Florida man who was charged with a felony after “releasing a dozen heart-shaped balloons into the sky”).

38. Ashley Nellis, Sent’g Project, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* 7 (2021), <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>; Kendra Bradner, et al., Columbia Univ. Just. Lab, *More Work to Do: Analysis of Probation and Parole in the United States, 2017-2018* at 6 (2020), <https://justicelab.columbia.edu/sites/default/files/content/More%20Work%20to%20Do.pdf> (finding that a Black person was four times more likely than a white person to be on parole according to 2018 data); Glenn R. Schmitt, et al., U.S. Sent’g Comm’n, *Demographic Differences in*

Sentencing: An Update to the 2012 Booker Report (2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171114_Demographics.pdf (finding that judges sentence Black men to sentences averaging nearly 20 percent longer than similarly situated white men).

39. These questions are borrowed from San Francisco’s fair chance law. See Fair Chance Ordinance, S.F. Police Code, Art. 49, § 4903, https://codelibrary.amlegal.com/codes/san-francisco/latest/sf_police/0-0-0-8603.

40. Mary Griffin & John McNamara, Consumer Fin. Prot. Bureau, *Applying for a Job? It’s Important to Know What Goes Into Your Background Screening Reports* (Oct. 3, 2019), <https://www.consumerfinance.gov/about-us/blog/applying-job-its-important-know-what-goes-your-background-screening-reports/>.

41. Background screening companies regularly generate reports with the following errors: attributing someone else's record to the subject of the report; including sealed or expunged records; omitting information about how the case was resolved; reporting a single incident or offense multiple times; and misclassifying the offense reported. See Ariel Nelson, Nat'l Consumer Law Ctr., *Broken Records Redux* (2019), <https://www.nclc.org/images/pdf/criminal-justice/report-broken-records-redux.pdf>. Even FBI records are frequently inaccurate. For example, in 2012, roughly half of the FBI's records failed to include information on the final disposition of the case. Such missing information, if it includes details like dropped charges, is frequently beneficial to jobseekers. Approximately one-third of felony arrests do not result in conviction, and many others are reduced to misdemeanors. NELP has estimated that 1.8 million workers per year are subject to FBI background checks that include faulty or incomplete information. Madeline Neighly & Maurice Emsellem, Nat'l Emp't Law Project, *Wanted: Accurate FBI Background Checks for Employment* (2013), <https://s27147.pcdn.co/wp-content/uploads/2015/02/Report-Wanted-Accurate-FBI-Background-Checks-Employment-1.pdf>.

42. Loan Originator Compensation Requirements Under the Truth in Lending Act (Regulation Z), 78 Fed. Reg. 11280, 11380 (Feb., 15, 2013), <https://www.govinfo.gov/content/pkg/FR-2013-02-15/pdf/2013-01503.pdf> (to be codified at 12 C.F.R. pt. 1026) (analysis of section 1026.36(f)(3)(ii)(A) of the final rule).

43. One particularly untrustworthy source of information is the police report. Such reports often contain errors and omit important details, and the truth of their contents has not been tested in a court of law. Juliet Brodie, "Reflections on the Unjust Influence of Police Reports in the Criminal Justice System," Mills Legal Clinic of

Stanford Law School Blog, June 10, 2015, <https://law.stanford.edu/2015/06/10/clinics-2015-06-10-reflections-on-the-unjust-influence-of-police-reports-in-the-criminal-justice-system/>; Michelle Alexander, *Why Police Lie Under Oath*, New York Times, Feb. 2, 2013, [https://www.nytimes.com/2013/02/03/opinion/sunday/why-police-officers-lie-under-oath.html?_r=0%20\(Feb.%202,%202013\)](https://www.nytimes.com/2013/02/03/opinion/sunday/why-police-officers-lie-under-oath.html?_r=0%20(Feb.%202,%202013)).

44. Beth Avery & Han Lu, *supra* note 23.

**Fair Chance Hiring in
Financial Services:**

A Step-by-Step Guide to
Hiring Workers with Arrest
and Conviction Records
in the Financial Services
Industry

