

Washington Fair Chance Act

/////// A Guide for Employers & Job Applicants \\\\\\\

What is the Fair Chance Act?

The Washington Fair Chance Act - RCW chapter 49.94 - protects job applicants with a criminal record. The law prohibits employers from automatically or categorically excluding workers from consideration before determining that they are otherwise qualified for the position. The law went into effect in June 2018.

Requirements

Job Advertisements

Employers* may not advertise job openings in a way that excludes people with criminal records from applying. A job announcement cannot state “no felons,” “no criminal backgrounds,” or communicate a similar message.

Job Applications

Job applications may not include any question seeking information about an applicant’s criminal record.

Hiring Process

Until there is an initial determination that an applicant is otherwise qualified for the position, Washington employers may not:

1. Inquire verbally or in writing about an applicant’s criminal record;
2. Receive information through a criminal history background check;
3. Otherwise obtain information about an applicant’s criminal record; or
4. Implement policies or practices that automatically or categorically exclude job applicants with a criminal record, including rejecting applicants for failure to disclose a criminal record.

Filing a Complaint

You can file a complaint about a potential violation of the Fair Chance Act with the Attorney General’s Office by emailing us at fairchancejobs@atg.wa.gov, calling (833) 660-4877, or using the online form linked at the bottom of our Fair Chance Act webpage at www.atg.wa.gov/fair-chance-act. A staff member will follow up with you. Anyone may file a complaint under the Fair Chance Act, not only job applicants.

**The Fair Chance Act does not apply to employers hiring someone who will or may have unsupervised access to children under 18, vulnerable adults, or vulnerable persons, as defined by law; law enforcement or criminal justice agencies; financial institutions; national or registered securities entities; employers seeking non-employee volunteers; or other employers who are permitted or required by law to ask about and consider information about an applicant’s criminal record for employment purposes.*

Washington State Attorney General’s Office
Wing Luke Civil Rights Unit
www.atg.wa.gov/wing-luke-civil-rights-division



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Wash. Rev. Code Ann. § 49.94.010

(1) An employer may not include any question on any application for employment, inquire either orally or in writing, receive information through a criminal history background check, or otherwise obtain information about an applicant's criminal record until after the employer initially determines that the applicant is otherwise qualified for the position and makes an offer of employment conditioned on obtaining the applicant's criminal record.

(3) An employer may not implement any policy or practice that automatically or categorically excludes individuals with a criminal record from any employment position. An employer may not reject an applicant for failure to disclose a criminal record prior to receiving a conditional offer of employment.

(4)(a) An employer may not carry out a tangible adverse employment action based on an applicant's or employee's arrest record or juvenile conviction record.

(b) This subsection does not apply to an adult arrest in which an individual is out on bail or released on their own personal recognizance pending trial.

(5)(a) An employer may not carry out a tangible adverse employment action solely based on an applicant's or employee's adult conviction record, unless the employer has a legitimate business reason for taking such action.

(b) Before carrying out any tangible adverse employment action under this subsection, the employer shall notify the applicant or employee and identify to the applicant or employee the record on which the employer is relying for purposes of assessing its legitimate business reason. The employer shall hold open the position for a minimum of two business days to provide the applicant or employee a reasonable opportunity to correct or explain the record or provide information on the applicant's or employee's rehabilitation, good conduct, work experience, education, and training.

(c) If an employer makes a tangible adverse employment decision following the reasonable opportunity under (b) of this subsection, the employer shall provide the applicant or employee with a written decision, including specific documentation as to its reasoning and assessment of each of the relevant factors, including the impact of the conviction on the position or business operations, and its consideration of the applicant's or employee's rehabilitation, good conduct, work experience, education, and training.
