

The County of Los Angeles – A Fair Chance Employer



FREQUENTLY ASKED QUESTIONS

Live Scan

1. Q: What is a Live Scan?

A: Live Scan is the digitally scanned fingerprinting process the County uses to obtain your fingerprints. Live Scan allows digitally scanned fingerprints and related information to be submitted electronically to the California Department of Justice (DOJ) and the US Federal Bureau of Investigation (FBI).

2. Q: How will the County obtain my conviction history?

A: California Penal Code section 11105(b)(11) authorizes the County to request conviction record information from the DOJ and the FBI in order to assist in fulfilling employment, certification, or licensing duties. Once you receive a conditional job offer, you will participate in the Live Scan process and your fingerprints will be submitted to the DOJ and FBI who will provide information about your conviction history.

3. Q: What is considered a conviction?

A: A conviction includes a plea, verdict or other finding of guilt by a court, including a military court, regardless of whether sentence is imposed by the court.

4. Q: How can I obtain a copy of my criminal history record?

A: For State records, you may request your own Criminal Offender Record Information (CORI) from the court of jurisdiction, or you may contact the California Department of Justice (DOJ). To receive a copy of your CORI from DOJ, individuals must follow instructions shown at this link: <https://oag.ca.gov/fingerprints/security>.

Procedures for obtaining a copy of FBI criminal history records are set forth in Title 28, Code of Federal Regulations (CFR), Section 16.30 through 16.33 or go to the FBI website at <http://www.fbi.gov/about-us/cjis/background-checks>.

5. Q: How can I change, correct, or update my criminal history records?

A: If you feel the information contained within your DOJ criminal history record is incorrect, you may submit a formal challenge to the DOJ after you have received a copy of your record from the DOJ, pursuant to California Penal Code Sections 11120-11127. Form BCIA 8706 "Claim of Alleged Inaccuracy or Incompleteness" will be mailed to you along with your record. Submit form BCIA 8706 and any supporting documentation to the DOJ at the address provided on the form. The DOJ will review your submission and respond to you in writing, along with an amended copy of your criminal history record if appropriate.

Procedures for obtaining a change, correction, or updating of an FBI criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.

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Fair Chance Initiative

1. Q: If I have a past conviction, how does the County's Fair Chance Initiative help in reducing automatic disqualification from County employment?

A: Los Angeles County is a Fair Chance employer. Unless an exemption applies, the County's Fair Chance Initiative prohibits the County from seeking the disclosure or consideration of an applicant's conviction history before the County makes a conditional offer of employment to the applicant. If the County makes you a contingent job offer, it may ask you to participate in the Live Scan process. If the Live Scan produces a conviction history for an applicant, the County will conduct an individualized assessment, which requires an evaluation of several factors to determine if an applicant's conviction history is compatible with the duties and responsibilities of the position sought and is described more fully below, before determining whether to rescind a conditional job offer.

2. Q: How does the County determine whether my conviction is compatible with the position I applied for?

A: If the County makes you a contingent job offer, you may be asked to participate in the Live Scan process which requires that your fingerprints be submitted to the DOJ and FBI, who will provide information about your convictions.

Once the County receives the information from DOJ and FBI, the County will evaluate the information to determine whether there is a connection between the conviction(s) and the position sought. Additional factors considered by the County include, but are not limited to:

- The nature and seriousness of the offense;
- Time that has elapsed since the conviction and completion of sentence;
- Facts or circumstances surrounding the offense or conduct;
- The nature of job held or sought;
- Age when convicted or when released from prison;
- Length and consistency of employment history before and after the offense or conduct;
- Evidence and extent of rehabilitation (e.g., education, training, or other evidence of rehabilitation) by the applicant;
- Evidence challenging accuracy of conviction history report that forms basis for rescinding job offer;
- The level of potential risk and impact posed to the department, the County, and members of the public based on the individual's documented conviction history when compared to mitigating factors.

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3. Q: Are there convictions that do not have an impact on the contingent job offer?

A: Unless required by law, the County will not consider the following information related to convictions which are:

Expunged records

An expungement of records occurs when a court orders the destruction/removal of arrest records or other court proceedings. A Penal Code, 1203.4 / 1203.4 (a) dismissal withdraws a previous verdict or plea of guilt or *nolo contendere*. The court then dismisses the charges against the person, and the person “shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she was convicted.”

Juvenile Offenses

It is not necessary to disclose any conviction while a juvenile (under 18 years old), unless the job announcement identifies particular convictions that must be disclosed for that particular classification or position, regardless of age when convicted.

Traffic Offenses

It is not necessary to disclose a conviction for a traffic offense that was less than \$390.

Miscellaneous Offenses

It is not necessary to disclose any conviction for one of the following violations that is more than two years old:

- A. Health & Safety Code Section 11357(b) or (c) (possession of marijuana), or any statutory predecessor to that section;
- B. Health & Safety Code Section 11360(c) (transportation of marijuana), or any statutory predecessor to that section;
- C. Health & Safety Code Section 11364 (possession of drug paraphernalia), Section 11365 (presence in a place where a controlled substance is being used), and/or Section 11550 (use of a controlled substance) as they relate to marijuana prior to January 1, 1976, or any statutory predecessors to those sections.

4. Q: If my conditional offer is rescinded by the County, how do I determine what conviction history information was used as the basis for my disqualification?

A: Per Penal Code 11105, departments “must expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision.” As such, the department will provide you with the disqualifying conviction history information.

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5. Q: How will an applicant be notified when the County is rescinding a conditional employment offer based the conviction history?

A: The County will send the applicant a Notice of Preliminary Decision to Rescind Conditional Employment Offer Based on Disqualifying Convictions. The notice will contain an explanation of the applicant's right to respond to the preliminary notice within five (5) business days from the date of the notice. The applicant will be granted an additional five (5) business days if he/she informs the County that they will be submitting additional information disputing the accuracy of the criminal history information used as the basis of the disqualification.

The County will conduct a re-assessment, which includes a review of any additional evidence submitted, to make a final determination whether the conviction history is acceptable. Either a Notice of Restoration of Conditional Employment Offer or a Notice of Final Decision to Rescind Conditional Employment Offer Based on Disqualifying Conviction(s) will then be sent to the individual.

6. Q: What if I disagree with the County's final decision to rescind my job offer due to my conviction(s)?

A: If you believe that an error has been made in determining your eligibility, you may file an appeal with the Department of Human Resources. The appeal must be in writing and provide specific facts and information, which demonstrate where the error occurred. Any appeal that fails to contain such information will be denied as insufficient. The appeal must be received by the Appeals Program within ten (10) business days from the postmark date on the envelope in which this notice was mailed, by using this web address: <https://eappeals.lacounty.gov>. For technical support related to online appeal submissions go to <http://apps.hr.lacounty.gov/eAppeal/>.

You also have the right to file a complaint with California Department of Fair Employment and Housing (DFEH) at:

California Department of Fair Employment and Housing
2218 Kauson Drive, Suite 100
Elk Grove, CA 95758

You may contact DFEH at www.dfeh.ca.gov/complaint-process/complaint-forms/ or 1-800-884-1684.

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Positions Exempt from Government Code Section 12952

1. Q: What positions are not covered under the Government Code Section 12952?

A: Positions not covered include:

- A position for which a state or local agency is otherwise required by law to conduct a conviction history background check.
- A position with a criminal justice agency. A criminal justice agency is an agency at any level of government that performs as its principal functions activities that either:
 - a) related to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders; or
 - b) relate to the collection, storage, dissemination, or usage of criminal offender record information[Gov. Code 12952(d)(2); PC 13101]
- A position as a Farm Labor Contractor, as described in Labor Code section 1685.
- A position for which an employer or employer's agent is required by any state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history. For purposes of this paragraph, federal law includes rules or regulations promulgated by a self-regulatory organization as defined in section 3(a) (26) of the Securities Exchange Act of 1934, as amended by 124 Stat. 1652 (Public Law 111-203), pursuant to the authority in section 19(b) of the Securities Exchange Act of 1934, as amended by 124 Stat. 1652 (public Law 111-203).

2. Q: Why am I being asked to report my conviction history?

A: There are a limited number of positions where a County department may continue to ask for conviction history information on the employment application form and/or a Candidate Conviction History Questionnaire (CCHQ). Such positions include, but are not limited to, any position within a criminal justice agency, as the term is defined by Penal Code Section 13101; or positions involving access to or care of children per Welfare and Institutions Code 16501. Los Angeles County asks about a candidate's conviction history to decide whether it is compatible with the duties of the desired position and it helps the County determine each candidate's suitability for the particular position being applied for.

3. Q: If the job application asks about my criminal history, what convictions must I disclose?

A: You must disclose all convictions by any criminal or military court, even if issued a Certificate of Rehabilitation (but not yet pardoned) under California Penal Code Section 4852.16, except those listed in the CCHQ form and/or those protected

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from disclosure by a valid court order. Access to that form can be found at this link: http://file.lacounty.gov/SDSInter/dhr/247492_CCHQ.pdf