



## PPG 514 – DESIGNATION OF SENSITIVE POSITIONS AND CONVICTION HISTORY ASSESSMENTS

### Frequently Asked Questions

#### **1. The County is a Fair Chance employer. What does that mean?**

In adherence to State law (i.e., the Fair Chance Act) and County policy, the County generally restricts inquiries about and consideration of an applicant's criminal history before making a conditional job offer. This means the County will not, with few exceptions, restrict applicants with a criminal history from applying or ask questions about an applicant's criminal history during the interview process.

If a County department receives criminal history information about an applicant through the post-offer background check (i.e., Live Scan), the department must conduct an individualized assessment to determine whether there is an adverse relationship between the conviction(s) listed and the position sought. An applicant must also be given the opportunity to respond to the department's decision to rescind the conditional offer based on the identified criminal history, if applicable.

#### **2. Is the County required to conduct criminal background checks for all County positions?**

No. The County's background check process as stated within PPG 514 is in alignment with State law and the Board of Supervisors' policy on Fair Chance. Unless an exemption applies, the County does not require its departments to conduct criminal background checks or inquire regarding an applicant's criminal history for all County positions. Rather, departments may conduct criminal background checks only for positions designated as "sensitive," and only after a conditional offer of employment is made.

Sensitive positions are positions that require a heightened level of review that when related to the essential job functions of such positions, may pose a significant potential risk to the public, County Workforce, and/or the resources or systems of the County when performed by persons who have a criminal history incompatible with those duties (whether those persons are employees of the County, volunteers, or perform those services pursuant to a contract).

#### **3. How does the County define a conviction?**

A conviction includes a plea, verdict, or another finding of guilt by a court, including a military court, of any felony or misdemeanor provided the person has been placed on probation, fined, imprisoned, or paroled because of the conviction.

#### **4. What is an individualized assessment?**

An individualized assessment is a reasoned, evidence-based analysis that is completed in writing, to determine if an applicant's criminal history (if any) has a direct, adverse, and



negative relationship to the specific job duties of the position applied for that justify denying the applicant the position.

#### **5. What positions are exempt from the County's Fair Chance policies?**

The following positions are exempt from the County's Fair Chance policies:

- A position for which a department is required by any State, federal, or local law or regulation to:
  - Conduct a criminal history background check;
  - Inquire regarding criminal history; or
  - Restrict employment based on criminal history.
- A position for which a department is prohibited by any State, federal, or local law or regulation from employing a person with a specific criminal history.
- Positions within a criminal justice agency, as defined by Penal Code Section 13101. This refers to an agency at any level of government that performs as its principal functions, activities which either:
  - Relate to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders; or
  - Relate to the collection, storage, dissemination, or usage of criminal offender record information.

#### **6. Do volunteers and contract personnel also require a Live Scan and individualized assessment?**

Volunteers and contract personnel are required to undergo a Live Scan and individual assessment/reassessment if they are going to be assigned to sensitive positions or functions (for example, if they will have remote access to medical and criminal history information).

Volunteers and contract personnel who are not assigned to sensitive positions or functions should not need a Live Scan. Such non-sensitive assignments may include contracts that relate to commodity agreements (e.g., supplies and equipment acquisitions, and deliveries), office equipment repair, short-term and/or supervised consultant or professional services (e.g., training), construction or Job Order Contracting (JOC), and facilities services (e.g., landscaping, pest control, asbestos abatement, and waste removal).

#### **7. What factors does the hiring department consider in assessing criminal history with the position applied for?**

A department will consider the following factors in its initial individualized assessment and reassessment of known criminal history:

- Nature and gravity of the offense or conduct.



- The context in which the offense occurred.
- Time that has passed since the conviction and completion of a sentence.
- Nature of job held or sought.
- Evidence of rehabilitation or mitigating circumstances voluntarily submitted in writing or orally by the applicant or another party at the applicant's request (see question 8).
- Whether the applicant has a license, certificate, authorization, or any other similar credential from a licensing, regulatory, or other government agency or board required for the position; if so, a rebuttable presumption exists that such applicant's criminal history is not directly, adversely, and negatively related to the specific duties of the job.
- The number of offenses for which the individual was convicted, provided the convictions show a nexus to the specific job duties of the position.
- Evidence challenging the accuracy of the criminal history report that forms the basis for rescinding a conditional offer of employment.
- The level of potential risk and impact posed to the department, the County, and members of the public based on the individual's documented criminal history when compared to mitigating factors.

**8. What information may applicants submit to show proof of rehabilitation or mitigating circumstances?**

If applicants receive a preliminary notice that their conditional offer is being rescinded, they may submit a variety of information to show proof of rehabilitation or mitigating circumstances. Below are examples of the types of evidence and documents that can be submitted to a hiring department:

- The length and consistency of employment history before and after the conviction or completion of sentence.
- Evidence showing the applicant is seeking employment and/or held gainful employment (including performing similar work) after their conviction with no known incidents of additional criminal conduct.
- Current or former participation in self-improvement efforts (including certificates of enrollment, participation, or completion); for example, schooling/education, job/vocational training, counseling, community service, and/or rehabilitation programs (e.g. alcohol or drug treatment programs) including in-custody programs;
- Whether the applicant is bonded under a federal, State, or local bonding program.
- Successful completion, or compliance with the terms and conditions of parole and/or probation (inability to pay fines, fees, and restitution due to indigence cannot be considered as non-compliance with terms and conditions of parole and/or probation).
- Employment or character references, or letters of recommendation from people who know



them, such as letters from current or former teachers, counselors, case managers, supervisors, co-workers, community leaders, parole or probation officers, or others who know the applicant.

- Evidence that they were not convicted of one or more of the offenses or that the conviction record is inaccurate.
- Facts or circumstances surrounding the offense or conduct, showing that the conduct was less serious than the conviction seems.
- Age of the applicant when the conduct occurred.
- Explanation of how prior events or conditions, such as homelessness, coercive conditions, trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, intimate physical or emotional abuse, or other similar factors contributed to the conduct.
- Whether a disability, including but not limited to a past drug addiction or mental impairment, contributed to the conduct, and if so, whether the likelihood of harm arising from similar conduct can be sufficiently mitigated or eliminated by a reasonable accommodation, or if the disability has been mitigated or eliminated by treatment or otherwise.
- The likelihood of recurrence of similar conduct.
- Any other evidence or documents demonstrating fitness for the position based on rehabilitation or mitigating circumstances.

**9. May applicants orally present their evidence of rehabilitation or mitigating circumstances after receiving a preliminary notice of rescission?**

Yes, upon an applicant's request, they must be allowed the opportunity to orally present evidence of rehabilitation or mitigating circumstances to the hiring department. The meeting must be conducted within 10-business days and should be documented (e.g., the meeting may be recorded). The meeting can be conducted in person, virtually, or over the phone and applicants should be allowed to submit any documentation to support their assertions regarding rehabilitation or mitigating circumstances (departments may also request such documentation if not proactively submitted by the applicant).

**10. Can a department rescind a conditional job offer because of an arrest that has not yet gone to trial?**

A hiring department should evaluate an unresolved arrest (i.e., an arrest for which the applicant is out on bail or on their own recognizance pending trial) using the same individualized assessment applicable to convictions. Depending on the circumstances, the hiring department may choose to pause further onboarding actions and hold the item pending the final disposition of the criminal charge(s), and/or attempt to investigate the conduct on which the arrest was based. Departments must follow all individualized assessment and notice procedures that are applicable to convictions prior to rescinding a conditional offer



based on an unresolved arrest. Moreover, departments should consult their assigned County Counsel prior to rescinding a job offer due to an unresolved arrest.

Note: If an applicant is referred to a pre-trial or post-trial diversion program, until that program has been completed and the underlying pending charges or conviction have been dismissed, sealed, or eradicated, departments may consider the conviction or pending charges.

**11. If an applicant's criminal history shows a conviction for an offense matching one listed within the policy with a nexus to specific work functions, does it mean the applicant is automatically disqualified from employment?**

The specific Penal Code violations listed within the *Evaluating Nexus to Sensitive Positions* section of PPG 514 are intended as examples only to help departments assess a candidate's suitability more effectively for employment when evaluating the potential nexus of criminal history to specific job functions. Departments may not "automatically" disqualify an applicant simply because their criminal history reveals the same offense as that listed within the policy. Departments are still required to conduct an individualized assessment to evaluate if the criminal history has a direct, adverse, and negative bearing on the applicant's ability to perform the duties and responsibilities of the position applied for.

Many factors should be taken into consideration before rescinding a conditional offer of employment, including, among others, the nature and gravity of the conviction, the time passed since the conviction, and the circumstances of the offense or conduct. In other words, simply because a conviction initially appears to show a "nexus" to a particular job, it does not mean the candidate cannot be hired.

**12. Do all applicant notices of preliminary and final job rescission have to include information on why the job was rescinded?**

Yes. The requirement for all preliminary and final notices of job rescission to applicants are stated within PPG 514 and are aligned with State law and the Board of Supervisors Policy on Fair Chance hiring. Hence, as part of the stated requirements, all such notices must also include either a copy of the *Individualized Assessment/Reassessment Form* or a detailed explanation of the risks inherent within the applicant's criminal history as related to the specific duties of the position applied for. Providing this information increases applicant transparency and helps clarify why a job was rescinded. Furthermore, for all preliminary notices, the information may assist applicants to submit relevant evidence of rehabilitation or mitigating circumstances prior to a final hiring decision; for all final notices, the information could help determine how the applicant may proceed after a final decision has been made.

For additional information and specific template language pertaining to these requirements, see **Attachment C** for a sample of the *Notice of Preliminary Decision and Opportunity for Applicant's Response*, and **Attachment G** for a sample of the *Notice of Final Decision to Rescind Conditional Employment Offer Based on Disqualifying Conviction(s)*.



**13. If a department decides to rescind a conditional offer for an applicant, is it acceptable to fill the vacancy before a final decision is made?**

An applicant must be allowed the minimum timeframe (i.e., at least five-business days) to respond to a *Notice of Preliminary Decision and Opportunity for Applicant's Response*. If within five business days, the applicant requests an extension to dispute the accuracy of the criminal history report or to submit evidence of rehabilitation and/or mitigating circumstances, the department must wait at least another 10-business days for the applicant to submit such evidence. The vacancy can only be filled after the department has issued the *Notice of Final Decision to Rescind Conditional Employment Offer Based on Disqualifying Convictions* in accordance with the policy.

**14. What are the recommended timelines for departments to respond to applicants after an assessment/reassessment?**

As a best practice, departments are to review Criminal Offender Record Information (CORI) and begin their individualized assessments within **48 hours** of receiving Live Scan results. If court records are required for a criminal history review based on the Live Scan results, departments are encouraged to complete the individualized assessment within **five-business days** of receiving the court records. Once the individualized assessment is completed and if the department decides to rescind the preliminary conditional offer, the applicant should be promptly notified.

Departments should communicate with applicants regarding any undue delays in the background check process, or delays regarding any decisions to rescind conditional offers of employment either on a preliminary or final basis. Applicants may also directly communicate with relevant departmental staff for a status on their live scan and/or background check.

**15. How can an applicant contest a final rescission of a conditional job offer because of their criminal history?**

An applicant may contest the department's final decision by filing an appeal with the Department of Human Resources within 10-business days of when the *Notice of Final Decision to Rescind Conditional Employment Offer Based on Disqualifying Conviction(s)* was issued. Appeals are to be filed online at <https://eappeals.lacounty.gov>.

If an applicant believes there was a violation of the County's Fair Chance Policies, they may file a complaint with the County Equity Oversight Panel (CEOP) at <https://ceop.lacounty.gov/complaint-system>, via e-mail at [ceop@bos.lacounty.gov](mailto:ceop@bos.lacounty.gov), or over the phone at (213) 974-9868 or (213) 620-9282.

**16. Where can more information about the County's Fair Chance hiring process be found?**

More information about the County's Fair Chance employment process, including an overview of the program, Fair Chance hiring data, how to apply for a job, and other helpful resources



Los Angeles County  
DEPARTMENT OF

**Human Resources**



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can be found on the Department of Human Resources website at <https://hr.lacounty.gov/fairchanceemployer>.

The full legislative text of the law on the Fair Chance Act can be located by clicking [here](#) or by copying and pasting the following link in your browser:  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=12952](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12952).

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