

# Fair Chances Hiring Process Act

22 GCA Ch. 6 (P.L. 34-22)

## TO JOB APPLICANTS AND EMPLOYEES

Employers with more than 15 employees are **REQUIRED** to post an FCHPA notice in a conspicuous location.

**THE LAW** The Fair Chances Hiring Process Act requires employers to follow strict rules regarding the use of arrest and conviction records in hiring and employment decisions.

**COVERAGE** The law covers job applicants and employees who would be or are performing work in Guam, and applies to employers who **employ more than 15 employees**.

**EXEMPTION** **FCHPA *Shall not apply***: **1)** where any federal or local law or regulation requires the consideration of an applicant's criminal history for the purpose of employment; **2)** to any position designated by the employer as part of a federal or local government position or obligation that is designed to encourage the employment of those with criminal histories; or **3)** to any position which requires that employee to work in close proximity of or provides programs, services, or direct care to minors.

**EMPLOYERS: *Shall not*** request that a **police clearance or court clearance** be provided as part of an application for employment unless they have first made a conditional offer of employment.

***Shall not*** make **any inquiry** about, or require the disclosure of, an applicant's arrest record or criminal case which resulted in a dismissal, expungement, sealing, or non-conviction.

***Shall not*** make **reference** to any requirement for Police and/or Court Clearance in a job advertisement, job posting, interview, or by any other means, prior to extending a conditional offer of employment.

After a conditional offer of employment, an employer may only withdraw the conditional offer to an applicant based on a **legitimate business reason**.

If an applicant's conditional offer is terminated or an adverse action is taken against an applicant as a result of a pending criminal case or criminal history, **an applicant may request** that the employer provide **within 30 days**:

- 1) Copies of all records used in considering the applicant or employee, including criminal records, and
- 2) A written Statement of Denial which:
  - a. Articulates a legitimate business reason for withdrawal of conditional job offer;
  - b. Specifically demonstrates consideration of mandated factors;
  - c. Advises the applicant of their right to file an administrative complaint with Guam Department of Labor.
- 3) Failure to provide a written Statement of Denial upon request shall create a rebuttable presumption that no legitimate reason exists for denying the applicant's employment or taking an adverse action against an employee on the basis of a criminal history.

If you need more information or wish to report an employer that you believe has violated this law, please contact the GDOL FEPD Office at (671)300-4544/4612 or (671)475-7037



Guam Department of Labor  
414 West Soledad Ave.  
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Hagatna, GU 96910



Scan for DOL's Website

Fair Employment Practice Division  
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Website: [dol.guam.gov](http://dol.guam.gov) or  
[dol.guam.gov/compliance/fepd/](http://dol.guam.gov/compliance/fepd/)



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