

# NOTICE TO TENANTS, HOUSING APPLICANTS, AND AFFORDABLE HOUSING PROVIDERS

## CITY AND COUNTY OF SAN FRANCISCO



### San Francisco Police Code Article 49 – Fair Chance Ordinance (FCO) Protections for People with Prior Arrests or Conviction Records

#### Under the Fair Chance Ordinance (FCO), you have the right to:

- 1) Have all of your other qualifications for affordable housing decided **BEFORE** your **housing provider knows anything about** your prior arrest or conviction record.<sup>1</sup>
- 2) Not be asked about your prior record through a rental application form.
- 3) Be provided with a **copy of this notice before** your housing provider runs your background report.
- 4) Not have any of the following six **“off-limits”** categories requested or considered:
  - arrests that did not result in conviction
  - participation in a diversion or deferral judgment program
  - expunged, judicially dismissed, invalidated or otherwise inoperative convictions
  - juvenile record
  - a conviction more than 7 years old
  - an infraction
- 5) Have your record assessed individually, in which only the **“directly-related”**<sup>2</sup> convictions and unresolved arrests in your record are considered. (See below footnote for a definition of directly-related)
- 6) Be provided with a **copy of the background report** and told which conviction or unresolved arrest is the basis for the potential denial. You have **14 days** to **respond orally or in writing to show that you shouldn't be denied. You can respond by:**
  - ✓ **Pointing out any inaccuracies** in the report.
  - ✓ **Providing evidence of rehabilitation.** Evidence of rehabilitation include satisfying parole/probation, receiving education/training, participating in alcohol/drug treatment programs, letters of recommendation, age you were convicted.
  - ✓ **Explaining any mitigating factors about the circumstances of the conviction.** Mitigating factors include physical or emotional abuse, coercion, untreated abuse/mental illness that led to the conviction.
- 7) **Call the Human Rights Commission to understand your rights or file a complaint (within 60 days of violation)** without any negative action or **retaliation** taken against you by your Housing Provider.

<sup>1</sup> A provider may run a criminal history report at the same time as a rental or credit history but may not look at it prior to determining the applicant is qualified.

<sup>2</sup> In considering whether a conviction/unresolved arrest is directly-related, the provider shall look at whether the conduct has a direct and specific negative bearing on the safety of persons or property, given the nature of the housing, whether the housing offers the opportunity for the same/similar offense to occur, whether circumstances leading to the conduct will recur in the housing, and whether supportive services that might reduce the likelihood of a recurrence are available on-site.

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**Under the FCO, a housing provider must:**

- 1) **Post this notice** prominently on a website and any location frequently visited by tenants or housing applicants.
- 2) **State in all advertisements** that the provider will consider qualified applicants with criminal histories.
- 3) Ensure that background checks do not contain any of the six “off-limits” categories referenced above.
- 4) Conduct an **individualized assessment** and consider only “directly-related” convictions and unresolved arrests in light of time elapsed, any evidence of rehabilitation, mitigating factors, or inaccuracy in the report.
- 5) Before taking a negative action such as A) Eviction, B) Failing or refusing to rent or lease property to an individual, C) Failing or refusing to add a household member to an existing lease, or D) Reducing any tenant subsidy, the housing provider **MUST** give the individual **a copy of the background report and identify** the particular convictions or unresolved arrests on which the negative action is based.
- 6) **Give** the individual **14 days** to respond orally or in writing to provide evidence of rehabilitation, mitigating factors, or inaccuracy in the report, **delay any negative action** for a reasonable time, and **reconsider** in light of the applicant’s response. Notify the individual of any final negative action.
- 7) **Retain tenant applications** and pertinent data and records relating to this Ordinance for 3 years.

For more information, contact the Human Rights Commission at (415) 252-2500 or email [hrc.info@sfgov.org](mailto:hrc.info@sfgov.org)