



DEPARTMENT OF  
**LABOR**

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**For Immediate Release**

January 17, 2019

**Fair Chances Hiring Process Act  
Signage Posting Compliance**

**Hagåtña, Guam** – The Guam Department of Labor (GDOL) is reminding employers about the Fair Chances Hiring Process Act (FCHPA): [22 GCA Ch. 6 \(P.L. 34-22\)](#). The law restricts employers from requesting police and court clearances as well as inquiring about arrest records/criminal cases to employee candidates upon the first phase of applying for employment. Only after an employer has considered the applicant and made a conditional job offer can they ask for information on criminal history. The law contains exemptions for certain employers and types of recruitment where up front screenings of criminal histories are necessary.

**FCHPA Signage Posting Compliance**

Employers with 16 or more employees are required to have a visible FCHPA notice of compliance poster in their place of business pursuant to rules at [17 GAR § 6203](#). Any employer who fails to meet this requirement may be found in violation and may be subject to civil penalties. GDOL is reminding employers of the following posting requirements:

- Posting must be in a format designed and approved by GDOL's Fair Employment Practice Division
- Posting must be placed in a conspicuous location.
- GDOL inspectors may conduct site visits to determine compliance with the requirement.
- Full enforcement of the requirements shall commence of March 1, 2019.

*"Having the FCHPA poster visible in the workplace will invoke and remind employers that individuals with records still have high hopes to get their foot in the door and gain meaningful employment,"* stated David Dell'Isola, GDOL Acting Director. *"They can now be at ease knowing that they are judged solely by their qualifications and work experience, and not immediately disqualified or rejected by employers at the start of the application process."*

Employers and other individuals can obtain a copy of the statute, rules, and FCHPA compliance poster at <http://dol.guam.gov/fepd/>. For more information, the public may contact GDOL's Fair Employment Practice Officer, Jeff Sablan at 300-4544/5.

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Attachments: Fair Chance Hiring Process Act compliance poster.

**Mailing Address:** P.O. Box 9970 • Tamuning, Guam 96931  
**Physical Address:** 414 West Soledad Avenue • Suite 400, GCIC Building • Hagåtña, Guam 96910  
**Telephone:** (671) 475-7000/1 • **Facsimile:** (671) 475-6811  
**American Job Center:** (671) 475-7000/1  
**Website:** [dol.guam.gov](http://dol.guam.gov) • [hireguam.com](http://hireguam.com)

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GUAM

# NOTICE OF COMPLIANCE

## 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 FCHPA notice in a conspicuous location.

**THE LAW** Starting **February 08, 2018**, 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. Rules and Regulations became effective July 26, 2018.

**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 a 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 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 671-300-4544/45 or 475-7037.**



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Email: [dol-fepa@dol.guam.gov](mailto:dol-fepa@dol.guam.gov)  
Website: [dol.guam.gov](http://dol.guam.gov) or  
<http://dol.guam.gov/compliance/fepd/>

*This compliance poster is mandated by rules and regulations and is subject to change or interpretation.  
Please consult with our website or FEPD staff for specifics regarding this poster.*