

# 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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