

The Fair Chance to Compete Act Fact Sheet

BACKGROUND

The U.S. Office of Personnel Management (OPM) issued final regulations to implement the Fair Chance to Compete for Jobs Act of 2019 (Fair Chance Act). The regulations assist agencies in carrying out the provisions of the Fair Chance Act found in chapter 92 of title 5, United States Code. The regulations govern when, during the hiring process, a hiring agency can request information typically collected during a background investigation from an applicant for Federal employment. In addition, the regulations provide a complaint process for applicants who believe they have been subjected to a violation of the Fair Chance Act and hold accountable Federal employees found to have committed such a violation.

OVERVIEW

The Fair Chance Act regulations were intended to promote compliance with Merit System Principles as well as the goal of the Federal Interagency Reentry Council and the Presidential Memorandum of January 31, 2014, “Enhancing Safeguards to Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through No Fault of Their Own,” otherwise known as “Ban the Box” rules. With some exceptions, the Fair Chance Act prohibit Federal agencies from requesting that an applicant disclose their criminal history record information before a conditional offer of Federal employment is given to that individual. Additionally, the Fair Chance Act requires agencies to establish and maintain a complaint process which allows an applicant to submit a complaint, or any other information, relating to compliance by an employee in reference to the timing of collection of criminal history information.

FREQUENTLY ASKED QUESTIONS

1. When may a hiring agency request criminal history information during the hiring process?

Unless otherwise required by law, an agency employee may not request, in oral or written form, that an applicant for an appointment to a position in the civil service disclose criminal history record information regarding the applicant before the appointing authority extends a conditional offer to the applicant.

2. What is the timeframe for an applicant to submit a complaint, or any other information, about an alleged violation of the Fair Chance Act?

An applicant may submit a complaint, or any other information, to the agency within 30 calendar days of the date of the alleged violation.

3. What can an applicant expect once a complaints or contact is made to the agency?

The Department may contact an applicant who submits a complaint for additional information relating to the alleged violation of the Fair Chance Act. Our vacancy announcements inform the applicant of our

procedure for submitting a complaint. For positions located in any of the Department of Interior's Bureaus or Offices, OPM's regulations require applicants to file their initial complaint with the Department of the Interior. Upon receipt and investigation, the Department will forward its findings to OPM for action.

4. Can an applicant receive assistance during the complaint process?

Yes. An applicant may select a representative of their choice to assist throughout the complaint process. We may disallow as an applicant's representative an individual whose activities as a representative would cause a conflict of interest or position, when the applicant designates an agency employee, who cannot be released from their official duties because of the priority needs of the Government, or when the applicant designates an agency employee whose release would give rise to unreasonable costs to the Government. If we disallow the applicant's chosen representative, we will notify the applicant in writing as soon as practicable.

5. How will an applicant's complaints, or any other information, be investigated?

Within the parameters provided in [5 CFR 754.102\(b\)](#), the Department has discretion to determine the appropriate fact-finding methods that efficiently and thoroughly address the matters at issue. In the event the investigator needs additional information from the applicant, the applicant will be given a reasonable amount of time (typically 10 calendar days) to respond to any such request for information.

6. Will applicants be notified of the outcome of a complaint?

No. Neither the Fair Chance Act nor OPM regulations require that an applicant be notified of the outcome of a complaint.