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.¹

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” 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.

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

¹ 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.

² In considering whether a conviction/resolved 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.