

SUMMARY OF ORDINANCE COMPLAINT PROCESS

Under the proposed Ordinance, a candidate alleging that an employer has violated any of the provisions of the Ordinance, within one year of the alleged violation, can file a complaint with OLSE. A complaint could be filed by contacting OLSE by email, phone, or in person at our Office located at the County Administration Center (CAC).

Upon receiving a complaint, OLSE will engage in a formal intake process with the candidate. OLSE has staff that can complete intake in Spanish or English and will incorporate interpretation services for candidates who speak other languages. OLSE will also provide the candidate with a letter acknowledging their claim submittal, and the legal right to pursue civil action against the employer instead of continuing with a claim with OLSE. Cases falling outside OLSE's jurisdiction will be referred to our partners at other agencies or local non-profits, like the Employee Rights Center (ERC), who support workers, especially disadvantaged workers without union representation, by providing education on workplace, health, and immigration issues.

Simultaneously, OLSE will contact the employer and inform them of the alleged violation and provide an opportunity to respond to the notice. If OLSE has reason to believe that an employer has violated any provision of this Ordinance, OLSE will investigate the alleged violation. Investigation can include access to inspect books and records such as the individualized written assessment and to interview persons, including employees. If, during the course of an investigation, OLSE has determined a violation likely has occurred, OLSE may issue a correction order to the employer. This order will outline the specific violation necessitating rectification and specify a reasonable timeframe for compliance. OLSE will also provide the employer with training, resources, and educational material to assist with compliance. If during the course of the investigation, OLSE determined a violation did not occur, OLSE will notify the candidate and refer them to employment programs including but not limited to the Center for Employment Opportunities (CEO), Second Chance, or the San Diego Workforce Partnership, programs able to aid the candidate with locating suitable employment.

If the employer does not comply with the corrective action issued by OLSE or has additional subsequent claims by other candidates that were determined to be a violation, OLSE shall issue a written notice requiring the employer to immediately remedy the violation and impose an administrative penalty and/or order any appropriate relief. Beginning on July 1, 2025, OLSE may issue administrative penalties for violation of this Ordinance, with no less than half of the penalties collected by OLSE awarded to each aggrieved candidate, as follows:

- For a first violation, a penalty of up to five thousand dollars (\$5,000)
- For a second violation, a penalty of up to ten thousand (\$10,000)
- For the third and subsequent violations, a penalty of up to twenty thousand (\$20,000)

OLSE will also provide both the employer and the candidate the opportunity to appeal the findings of a claim with a County hearing officer which will constitute the County's final decision.

SUMMARY OF FAIR CHANCE ORDINANCE PROGRAM

1. Education Enforcement Program:

OLSE will implement a program aimed at educating employers about the Fair Chance hiring process. This initiative includes training sessions and resources to ensure employers understand the legal requirements and best practices for compliance. Training will also include an extensive outreach effort to 14,000 businesses in the unincorporated area for one year after the Ordinance goes into effect. Outreach

will include but not be limited to canvassing businesses door-to-door, direct mailings, in-person and virtual sessions, social media, an interactive website, and individualized support from OLSE's regional employment partners. The development of the outreach program will continue to incorporate feedback and suggestions provided by stakeholders. An educational intervention will also be given to employers as part of the first written notice.

2. Governing Authority:

OLSE will act as the local administrative authority overseeing the enforcement of the Ordinance-related regulations in the unincorporated region. This includes monitoring compliance and addressing any violations that arise during the hiring process. A streamlined and transparent reporting process will be incorporated for candidates as they submit claims. Additionally, this authority extends to claims filed by employees who are currently with an organization and believe they are being discriminated against based on their criminal history, when seeking career advancement. At this time, governing authority is limited to unincorporated areas, however, could expand based on ordinances enacted by neighboring cities and jurisdictions.

3. Authority to Issue Penalties:

OLSE will be authorized to impose administrative penalties on employers who do not adhere to the Ordinance regulations. These penalties aim to ensure compliance and address any violations of the Ordinance. OLSE will work to engage employers through an education program and as part of the first attempt to engage and support employers. Following a written notice and educational intermediation, if there continue to be claims submitted by candidates, OLSE will investigate and may assess a penalty against the employer, taking into account the severity of the violation, the size of the employer, including both the total number of Employees and business revenue; and whether or not the Employer knew or should have known about the Fair Chance Act and Ordinance. The first penalty may be up to \$5,000. A second violation may result in a penalty of up to \$10,000, and for the third and subsequent violations, a fine of up to \$20,000. OLSE will assess all penalties based on the factors identified in the ordinance and future departmental regulations.

4. Individualized Assessment Requirement:

If an employer decides to rescind a job offer based on a candidate's conviction history, they must perform a written individualized assessment. This assessment evaluates the relevance of the conviction to the job role, ensuring that decisions are made fairly and in accordance with the candidate's specific circumstances. This assessment does not have to be provided to the candidate, however, should be held by the employer for one year. If a claim is submitted, OLSE will have the authority to review the individualized assessment as part of the investigative process. A criminal history assessment form will be created and provided to employers.

5. Five-Day Review Period:

If the employer intends to retract the job offer, a candidate will have five business days to provide evidence of rehabilitation or dispute the accuracy of the conviction history. During the five-day review period, the position must remain available during the review period. This period is a crucial component as it allows for a thorough review and provides the candidate with the opportunity to respond. The position can only be closed during this period if an emergency situation justifies such action.