



## **New York City Fair Chance Act Protections for Current Employees**

**What is the NYC Fair Chance Act (“FCA”)?** The FCA is a law limiting when and how most NYC employers can consider a person’s criminal conviction history or open criminal case(s) when deciding to hire, fire, or discipline them. The law also makes it illegal for most employers to seek information about, or make employment decisions based on, arrests that did not result in a criminal conviction; this includes dismissals, violation convictions, sealed cases, and ACDs.

**Who does the FCA protect?** The FCA was expanded in July 2021 to protect current employees with arrest or conviction records, in addition to job seekers. The new protections for current employees apply to full and part-time employees, interns, freelancers, and independent contractors.

**What does this mean for current employees?** Now most NYC employees may only be disciplined or terminated for a criminal conviction or new arrest if the employers does an individualized “Fair Chance Analysis” and:

- Determines that there is a direct relationship between the offense and the job; *OR*
- Shows that continuing to employ the person would involve an unreasonable risk to property or to the safety of specific individuals or the general public.

**Before making a final decision the employer must:**

- Give the employee a written copy of any arrest and conviction information;
- Give the employee a written copy of their Fair Chance Analysis; *AND*
- Allow 5 business days for the employee to challenge the arrest and conviction information and/or provide evidence of rehabilitation or good conduct.

**Can employees be placed on leave due to a conviction or pending case?** Under the FCA, employers are allowed to place employees on leave for a “reasonable” amount of time, in most cases up to 5 days, while they investigate the employee’s conviction or open case. The employee can use paid leave; if no paid leave is available then unpaid leave is allowed. Employers may not temporarily or permanently place someone else in the employee's position until a final decision has been made.

**Are you facing possible termination or discipline on the job because of your conviction history or new arrest?** Call the Legal Action Center for more information on the Fair Chance Act at 212-243-1313 or visit [www.lac.org](http://www.lac.org).