

Fair Chance Hiring for Employers

Part Two: Fostering a Fair Chance Culture at All Levels of Your Company

By Beth Avery, Senior Staff Attorney

For most jobs, employer background checks are unnecessary. However, if your company performs background checks for some or all positions, it can adopt policies to reduce unfair barriers to hiring workers with arrest and conviction records. NELP's eight-part "Fair Chance Hiring for Employers" series of policy briefs comprehensively explores the steps employers can take toward fair chance hiring. Part Two describes how your company can lay the groundwork for successful fair chance hiring.

People at all levels of your institution should be informed about the prospective changes and reasons for making them—from corporate leadership to recruiters and HR staff to the future coworkers of employees with records. Because the need for fair chance hiring so deeply impacts workers of color with records, it's important to ensure your workplace is welcoming to employees of color. Preparing your staff in a thoughtful way will lead to better outcomes, and meaningfully engaging organizations created by and for people with records is a crucial part of that process. ***The following are four ways your company can prepare for successfully implementing changes to hiring policies and practices.***

A. Obtain and clearly communicate top-down support within your institution.

While the inspiration for fair chance hiring can come from anyone within an organization, support among company leadership is crucial to institution-wide change. Cultivate buy-in of key internal stakeholders by pointing out the many compelling moral and economic justifications for fair chance hiring and by pointing to other businesses that have already taken steps toward greater equity. Encourage leadership to adopt an unambiguous policy statement that recognizes fair chance hiring as a company priority by communicating dedication to future changes and, if applicable, formalizing some changes already made. Such a statement will highlight the importance of the issue for staff and external stakeholders and set the tone for the work ahead.

Once support at the top of the organization is achieved, that commitment must be communicated to everyone involved in hiring. Don't assume that support at the top will

automatically filter down. Human resources staff, recruiters, and hiring managers are where the rubber hits the road and where policy change will succeed or fail. Make sure your staff understands that your institution's commitment to fair chance hiring is real and not just a PR stunt. The stigma of a record is strong, and staff may have concerns. Help your staff understand why the changes being made are important and deserve their support. If not clearly communicated, staff will likely revert to old habits, namely continuing to look for ways to weed out job applicants with records.

Fair Chance Hiring is Good for Business and the Economy

In addition to the clear moral imperative, adopting fair chance hiring policies makes sense from a business perspective. Widening and diversifying your talent pool as well as attracting smart, committed employees are among the compelling reasons.

People with records account for a significant portion of the workforce. Nearly one in three U.S. adults has an arrest or conviction record, including at least 34 percent of the unemployed prime-working-age men.¹ Workers have inherent dignity and worth that will always shine through. Despite negative and unfair stereotypes resulting from the stigma of their records, studies demonstrate that, when compared with other workers, people with records stay in their jobs longer² and earn promotions faster³ as they seek economic stability.

B. Promote internal commitment and cultural shift by training all recruitment, hiring, screening, and human resources staff.

Thorough and repeated opportunities for internal education are necessary to allay fears sparked by stereotypes and unconscious biases that can undermine a well-intentioned policy. Ensure that all staff receive training on the importance and details of your institution's fair chance hiring policies.

How you present this information can set the tone for whether your staff views the policy changes as insignificant or as integral to how your company operates. Trainings should include scenarios and examples relevant to the workplace and dispel myths about people with records. As discussed below, enlisting the help of people with records can make trainings more powerful.

Reinforce your institution's fair chance culture by periodically repeating trainings for new and tenured staff. Incorporating such fair chance learning into broader trainings on human resources issues will both reiterate the importance of the issue and demonstrate that it is not a niche issue.

Growing Internal Support

You should feel confident leading your company toward fair chance hiring. Survey data from 2021 reveal that most U.S. workers would be comfortable working alongside colleagues with records or who have been incarcerated. Similarly, most individuals would be comfortable visiting businesses that employ people with records and receiving assistance from formerly incarcerated personnel.⁴ That baseline of support is a good starting place, but additional internal education will help your employees recognize the value and importance of hiring people with records, which, in turn, will bolster your fair chance efforts.

Employees



of respondents would be comfortable working for an employer known to hire people with criminal records.

Customers

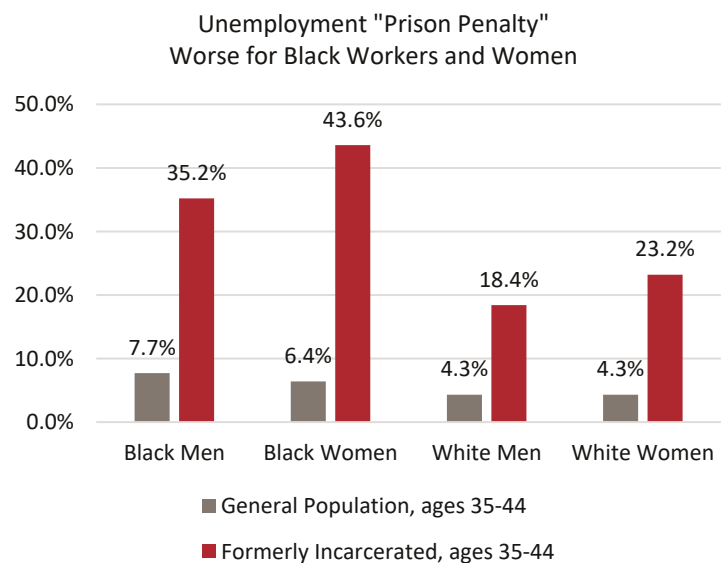


of respondents would be comfortable if an employee with a criminal record assisted them.

C. Cultivate a workplace culture that embraces diversity and fosters the talent of Black, Latinx, and Indigenous workers.

The hiring reforms proposed in this policy briefs series should be viewed as part of your company's diversity, equity, and inclusion mission because bias against workers with records is inseparable from anti-Black racism and the exclusion of people with records contributes to the lack of Black and Latinx employees at many companies. Because the stigma of a record both results from and reinforces racism, training on fair chance policy changes must be linked to internal education efforts focusing on diversity, equity and inclusion, anti-bias, and cultural competency. The same biases that lead employers to disproportionately screen out people of color and people from lower-income households will reinforce hiring practices that lock out people with records.

Employer bias against workers with records is compounded by anti-Black racism and sexism in the labor market. While someone who has been incarcerated is much more likely to be jobless, it is especially likely for Black men and women with records.⁵ White men and women face unemployment rates 14 percent and 18 percent higher, respectively, if they have been incarcerated.⁶ Black men and women see much greater prison penalties: formerly incarcerated Black men and women see unemployment rates 27 percent and 37 percent higher, respectively, than their counterparts who have not been incarcerated.⁷



Training must aim higher than merely preventing discrimination and harassment. A workplace atmosphere that is not affirmatively welcoming to employees of color will similarly lead people with records to feel undervalued and out of place. You should certainly train your hiring personnel to never discriminate against natural Black hair,⁸ based on clothing, or based on someone's "look," which is often a proxy for race. But your employees should also be trained to recognize that new colleagues of color may need additional support to feel welcome and accepted in a workplace dominated by white staff. Beyond new hires, your company must provide adequate, ongoing career support to workers of color so as to ensure longevity and advancement.

Although specific advice on creating a racially equitable workplace is beyond the scope of this policy briefs series, looking into your company's fair chance hiring policies may provide a natural opening to reexamine the firm's diversity, equity, and inclusion programs. You might start by investigating whether your company embraces a variety of best practices:⁹

- Is your D&I program siloed within HR? Does it have sustained C-suite support? Is the work left to women and people of color or are white men involved?
- Does your company encourage open communication about race, specifically asking senior leaders and managers to model and help guide healthy exchanges?
- Are your diversity efforts limited to preventative measures, like antibias trainings? Or do they include proactive steps designed to meet clear, measurable goals?
- Is leadership development color-blind or tailored to specific groups and individuals? Does your company specifically invest in the retention and career development of employees of color? Does it tokenize leaders of color or create opportunities for multiple candidates?

D. Partner with organizations created by and for formerly incarcerated people and people with conviction records.

People with conviction records offer invaluable insights into needed policy changes and most effectively communicate the wisdom of such changes. Employers who are serious about fair chance hiring will benefit from partnering with organizations created by and for directly impacted people.

As noted above, advocates from the formerly incarcerated community can increase the effectiveness of internal trainings by, among other things, providing important context for the policy change. Recounting personal experiences can help staff identify connections between racism in the criminal legal system and the discrimination regularly faced by people with records. Moreover, interactions between your staff and people with records can help counter dehumanizing stereotypes and bring policy changes to life.

Employers seeking to remove race discrimination from their hiring practices can begin by reaching out to and building relationships with local direct service and policy reform organizations. Local advocacy organizations—including those focusing on criminal legal reform, reentry, and workers' rights—may be able to help you reach potential employees with records and provide you with valuable feedback about your hiring processes. These

organizations often are front-line organizations that have invested in building the necessary trust, multilingual capacity, and cultural competency to help articulate and serve their membership's needs. Prioritize organizations led by people with records, which often have deeper connections to the directly impacted community and a more comprehensive understanding of the issues at stake.

Relationships with these organizations ought to be genuine and ongoing; the first contact should not be the last. In addition to helping design initial policy changes, such partners can help train staff, recruit job applicants with records, and evaluate progress. Crucially, be sure to show respect for the groups' expertise by formally engaging them as consultants where appropriate and not simply expecting free advice.

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Endnotes

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- 8 "Natural Hair Discrimination," Legal Defense Fund, <https://www.naacpldf.org/natural-hair-discrimination/>; Jena McGregor, "More States Are Trying to Protect Black Employees Who Want to Wear Natural Hairstyles at Work," Washington Post, September 19, 2019, <https://www.washingtonpost.com/business/2019/09/19/more-states-are-trying-protect-black-employees-who-want-wear-natural-hairstyles-work/>.
- 9 See Laura Morgan Roberts and Anthony J. Mayo, "Toward a Racially Just Workplace," Harvard Business Review, November 14, 2019, <https://hbr.org/2019/11/toward-a-rationally-just-workplace> (advising companies to consider the listed issues when reviewing internal D&I programs).

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