

Fair Chance Act: Frequently Asked Questions

Updated 6.9.22

Q1. In our department we usually make a conditional offer before we run any education, employment or criminal background checks. With the bifurcated process, can we make a conditional verbal offer before we run Step 1, the education and employment verifications?

A1. No. The process requires us to obtain and evaluate all non-criminal information before making a verbal or written conditional offer. This may include verifications of prior employment, academic/educational history, drug tests, Social Security traces, reference checks, and other background checks (not including criminal and motor vehicle records). After this is complete and the conditional offer has been extended, we can then ask about any self-disclosed criminal history and request a criminal background check.

For internal candidates, please follow the University's [Re-Hire and Managing Internal Transfers](#) policy and ensure that a candidate's references and work performance checks are complete before extending an offer.

Q2. Can I check the applicant's references while Step 1 is in progress?

A2. References may be checked while verification of education and employment is in progress. You must complete all requested professional references before you send the written offer to the candidate. You must update the reference check question on the offer card to reflect the number of references completed. You should request references from past supervisors, including the most recent position. There may be times when the former or current manager is not available. In these cases, it is important to get a reference from other managers, supervisors, or staff in the organization who may be able to provide information about an applicant's experience and qualifications.

Q3. A candidate may be reluctant to let us run an education and employment verification if we haven't yet made an offer. How do we handle this situation?

A3. You can explain to the candidate that they are a finalist for the role and that, as is required by the law, we have a bifurcated process under which we must obtain and evaluate certain information, including employment and education verification and reference checks before we extend a conditional offer. It is important to emphasize that this law applies to all employers within New York City and can refer the candidates to [NYC Fair Chance Act](#).

Q4. How can we make an offer if we haven't talked about salary?

A4. You may discuss the candidate's salary expectations with your candidates early in the process, and we encourage you to do so. Please remember that you may not ask candidates questions regarding their salary history, including the candidate's current salary.

Q5. A candidate probably won't want us to contact their current employer if they don't have an offer in hand. How do we handle this situation?

A5. You can explain to the candidate that as required by law, we must obtain and evaluate references before we extend a conditional offer and we can no longer save the current employer reference check process until later. It is important to emphasize that this law applies to all employers within New York City and can refer the candidates to [NYC Fair Chance Act](#).

Q6. How does the system record that we have run reference checks?

A6. We updated the Offer Card in TalentLink to include a question on the status of reference checks. You will have the option to answer "Yes," "No," or "In Progress" when you submit your finalist to CUHR for approval. Please note, if you initially answered "yes" or "in progress," you must complete the references and update the offer card with the number of references completed before you extend the written offer.

Q7. Does this bifurcated process apply to external candidates hired via the waiver process?

A7. Yes. The same bifurcated process is required.

Q8. We sometimes granted conditional clearances that let candidates start employment with the University before components of the background check had been done. Can we still do this?

A8. No. In the current process, the criminal background check is the final step and can only be run after evaluation of all non-criminal information, including education, employment and reference checks.

Q9. Will the bifurcated process add time to the background check and verification process?

Q9. Yes. Because the employment and education verifications and the criminal background check need to be run sequentially and not simultaneously, we expect that the verification and background check process will take slightly longer than it has in the past. It isn't possible to say how much longer the process will take since each case is different. Note that your candidate can help speed the process along by providing documentation, including redacted W2s and education transcripts that prove employment and education history. Also, please remind your candidate that they should respond to HireRight's request for information as soon as they receive it.

Q10. Is there an additional cost associated with the bifurcated process?

A10. No. The cost for running the verification and background checks has not changed.

Q11. What about faculty? Do they have to undergo the same bifurcated process?

A11. Yes. Faculty are subject to the same process. Please contact the Office of the Provost for more information.