

San Francisco Releases "Ban the Box" Notice for Posting and Distribution

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San Francisco's new Fair Chance Ordinance ("FCO") "bans the box" and otherwise restricts private employers and City contractors from inquiring into or considering certain criminal offenses when making hiring and personnel decisions. For more on the FCO, which becomes operative on August 13, 2014, see our past client alert, [San Francisco "Bans the Box" for Private Employers and City Contractors](#).

One of the requirements of the FCO is for employers and contractors to post a notice in a conspicuous place at every workplace, job site, or other location in San Francisco under the employer's control or at which work is being done in furtherance of a City contract.^[1]

The FCO also requires employers and contractors to supply the same notice to an applicant or employee before making an otherwise permissible inquiry into his or her criminal history.^[2] Finally, an employer must send a copy of the notice to each labor union or representative of workers with which it has a collective bargaining agreement or other agreement of understanding that is applicable to employees in San Francisco.

San Francisco's Office of Labor Standards Enforcement ("OLSE") recently posted the "Official Notice" in English on its website.^[3] Employers should take steps before the August 13, 2014, operative date to comply with the posting and distribution requirements set forth in the FCO. Employers also may want to consider adding a policy to their employee handbooks regarding the rights afforded under the FCO and/or including the notice on their intranet pages. Please contact your Proskauer lawyer for further guidance with compliance.

^[1] According to the FCO, employers must display the notice in English, as well as in Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site or other location at which it is posted.

[2] It is less clear whether the FCO requires employers and contractors to distribute the notice to applicants and employees in each of the languages specified for the posting of the notice. In the absence of clarity, we recommend that employers and contractors err on the side of caution and distribute the notice in all of the languages in which they would otherwise post the notice.

[3] Although the FCO requires OLSE to make the notice available not only in English but also in Spanish, Chinese, and all other languages spoken by more than 5% of the San Francisco workforce, OLSE has not yet released the non-English versions of the notice. It should be noted that, to comply with the FCO's requirements, an employer or contractor may be obligated to translate the notice into a language spoken by at least 5% of the employees at a workplace, job site or other location even though OLSE has not provided an official translation in that language.

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