

Students with Criminal History in the Job Search

If a student has been arrested or convicted of a crime it may be more challenging to obtain employment upon graduation. This guide is intended to assist students with a criminal record in the preparation and transition into the world of work.

Criminal Background Checks

The vast majority of employers will perform a criminal background check before finalizing a job offer with an employee in order to prevent negligent hiring and ensure safety and security in their organization. These background checks could come from multiple sources **including both public and private organizations**. If you were arrested, you were also most likely fingerprinted. Employers in many industries also fingerprint incoming candidates and run the prints through a national database. Employers cannot process a criminal history check or a fingerprinting check without your being made aware of it first. If you know what they are bound to find in going through this process, it is best to be upfront with them right away regarding your criminal history.

Employers mainly consider two things; whether or not you were convicted, and the nature of the crime. A dismissed charge is different than a conviction or no contest plea. Once a charge is filled however, it may still show up on a background check even if the charge was later dropped. They will also assess whether or not the nature of the crime raises doubts about the candidate's abilities to perform the responsibilities of the job. Not all background checks will supply this detailed information (date, charge, etc.). Some checks only come back "flagged". In this case, it is up to you to disclose information beforehand so that you can assure the employer that you are not a risky hire. It is also important for you to know your rights and ways in which employers are prevented from discriminating against you based on your criminal history. More information can be found on the [Equal Employment Opportunity Commission's website on Title VII of the Civil Rights Act of 1964](#).

Know that companies may have to uphold federal and state regulations regarding hiring employees in certain positions, especially those that give access to secure information, property, financial resources, and delivery of services directly to others (particularly children, elderly and those with disabilities or mental illness). Depending on the position responsibilities, these restrictions could require a clean record for 5, 10, even 25 years. There are also careers that require licensure or certification, and licensing boards are held under similar regulations. Some licenses restrict individuals from ever receiving them if the individual has certain charges in their background. It is important that you research restrictions for your particular crime, in your state, in regards to the career that you want you to pursue so that you understand if there is anything that could stand in your way. Unfortunately, there is no one website that shares this information, so a Google search and reviewing your state employment laws and licensing information are your best resources.

Even if you have a criminal charge that has been dropped, sealed, or expunged, there is no guarantee that an employer cannot find information on the web through media articles or other means. Over 90% of employers will do a Google search of you before offering a position. It is suggested that you Google yourself before going through the application process to understand what they might find, and address any concerns with them upfront.

Legal Remedies

Various legal remedies may be available to assist you in overcoming the obstacle of obtaining employment with a criminal record. Remedies available to you will depend on your record, criminal offense, and unique circumstances. We recommend that you seek legal guidance and research options from the state in which the crime or offense occurred.

- **Deferred Prosecution Agreement:** The legal process where the prosecutor agrees for first time offenders who commit a non-violent offense to complete certain requirements through a diversion program. Once the requirements are fulfilled by the offender the charges will be dismissed. Please keep in mind that not all offenses will qualify for the deferred prosecution program. Additionally, entry into a deferred prosecution program is determined by the State's Attorney Office.
- **Expungement:** The process of seeking a legal remedy where you petition the court to have a record destroyed. A person can only expunge their criminal record if they have never been convicted. For example, if you were found not guilty, it was a non-suit or you received supervision. There are other circumstances where you may have your record expunged if you were not convicted. There are waiting periods before your record is eligible for expungement. This petition is filed with the court.
- **Sealing:** The process of your record being made unavailable at the state level. If you were to complete a background check there would not be a record found. If you have been convicted, it may be possible to have your record sealed. You may be able to seal your record for misdemeanor acquittals and dismissals that you received. Furthermore, some felony convictions may be sealed depending on the conviction. Drug convictions will require a proof of a clean drug test taken within 30 days of filing the petition. Additionally, there are waiting periods before your record is eligible to be sealed. This petition is filed with the court.
- **Executive Clemency:** Also known as a pardon, this remedy forgives you of the criminal offense. A pardon can only be given by the President at the Federal level. At the state level the pardon is given by the Governor and the prison review board within your state. If a person chooses to seek a pardon it is a very extensive process and takes a few years to complete. If you are denied a pardon you must wait a year to reapply.
- **Certificates:** The process of waiving certain statutory barriers to employment and licensing requirements needed for specific positions. Certificates of Relief from Disability and Certificates of Good Conduct are two types for which you may be eligible. In order to obtain a Certificate you must have a rehabilitation hearing within the Circuit Court to demonstrate good conduct.
- **Waivers:** A waiver provides individuals with certain disqualifying convictions the opportunity to work in the healthcare field. A waiver may be obtained from the Department of Public Health which may allow an individual to work within the field.
- **Juvenile Record:** One has a juvenile record if they committed a crime and were convicted while they were under the age of 17 and was tried as a juvenile. Juvenile records are not automatically expunged but are protected by limited confidentiality rules. Even with limited confidentiality certain people can obtain your court and arrest records. It is best to petition the court to get your record expunged. Do keep in mind that depending on the offense you may not be able to get your record expunged. For example, sex offenses that would have been a felony if committed as an adult can't be expunged. Some states do not allow for your record to be expunged so it is important that you research the regulations in your state.
- **Federal Bonding Program:** A federal program designed to provide companies insurance for individuals who are considered risky hires in their first six months of employment. The program is to assist companies that hire individuals who may have a difficult time finding a job. Note: Check with the state you are applying in to determine if that particular state has a state bonding program as well.

- [Work Opportunity Tax Credit Program](#): A federal program that provides employers with federal tax credit benefit for hiring an ex-offender within one year of their release or conviction date. The program is designed to give employers an incentive to hire individuals who consistently face employment barriers.

Filling Out Applications

For many positions, not only do you have to submit a resume and cover letter, but you also need to fill out a formal application. Many applications ask at least one of the following questions:

- Have you ever been convicted of a crime?
- Have you ever been convicted of a felony?
- Have you ever been convicted of a crime or a felony?

It is best to be honest when answering these particular questions, although **applicants are not obligated to disclose sealed or expunged records of conviction or arrest**. Most companies will process a background check before offering a position, or a position could be contingent upon the background check. If you know that the company is going to do a background check, it is very important that you are honest on your application. If any stage of the process reveals that you have been dishonest in any way, this will affect your chances of employment. Pay attention to the way that the question is asked and only answer the question that is being asked of you (i.e. there is a difference between being convicted of a crime and being convicted of a felony).

Resumes and Cover Letters

If you have large gaps in your employment due to incarceration or any other reason, or if you have not had any prior work experience, a functional resume may be more appropriate than the traditional chronological resume. A functional resume puts less emphasis on your work history and instead highlights specific skills with brief statements indicating where those skills come from (personal experiences, education, volunteer, projects, etc.). For assistance in developing a functional resume, view [examples and tips](#) and use [Handshake](#) to make an appointment with [The Exchange](#).

A cover letter should be tailored specifically to each position that you apply for. You do not need to disclose your criminal history in the cover letter, although you certainly can if you were required to fill out an application that asked questions about criminal activity. If you do choose to briefly disclose your criminal offense/gaps in employment in the cover letter, be sure to express accountability and remorse regarding the offense and state that you would appreciate the opportunity to share more information with them in an interview. The primary focus of the cover letter should be on your interest in the company and position, and the strengths that you have to contribute to the role. If you answer "Yes" to criminal history on the application and choose not to disclose information in the cover letter, you may want to draft a letter of explanation that you can take with you to the interview.

Letter of Explanation

A letter of explanation can address your criminal background and employment gaps to potential employers. In disclosing your criminal offense, it is important to show accountability and remorse, and share what you learned from the experience. This letter should be honest and sincere, discuss your core values and beliefs and address the benefits of hiring you including your strengths and your motivation to continue to grow. You may also share information about the federal bonding program and the work opportunity tax credit (listed in the Legal Remedies above). You will not send this letter along with your initial application. The letter of explanation can be taken to an interview and given to an employer at the end of the interview, after you have verbally disclosed and information about your offense.

Interviewing

If you disclosed your criminal history in the application process and are offered an interview, know that regardless of your past, they are interested in interviewing you to learn more about your education, skills and qualifications. The interview gives you the opportunity to showcase your strengths and accomplishments.

If your criminal history comes up during the interview it is important to be honest and focus on how the sentence may have changed your life in order to show the employer that you are not a risky hire. Include information to display your new pattern of behavior such as attending college, participating in internships and being involved on campus. You could also discuss programs that you participated in, if you were incarcerated, that provided you with essential skills (i.e. vocational or educational training). Although it is important to be truthful, you do not have to go into much detail on the charge/incident itself.

If questions about your criminal history do not come up, you have the choice of whether to disclose or not. If you know that the position requires a background check, it is encouraged to be upfront and disclose your history while you have the opportunity to explain the charge face to face with the employer. Most background checks do not share information on what the charge is and when it occurred, it simply comes back "flagged". Being upfront gives you the opportunity to explain your history, progress and benefits of employing you before the employer dismisses you because of the flag without giving you the ability to explain. This can be brought up at the end of the interview when you are given the time to add any additional information and ask questions.

If you did not have to answer a question about your criminal history on an application, a background check is not required for the position, and they don't ask you about it in the application process, you do not need to disclose. At this point, disclosure is completely up to you.

Additional Resources

- [Using Consumer Reports \(Background Checks\): What Employers Need to Know](#)
- [Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964](#)
- [Employment Background Checks: What an Applicant Needs to Know](#)

Revised: July 2019 – Information adapted with permission from the [OSU Cascades CDC](#)
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