FAIR EMPLOYMENT POLICY:
EMPLOYMENT OF PEOPLE WITH CONVICTION RECORDS

The National HIRE Network recognizes that employers have legitimate concerns about hiring job applicants with criminal records. We also understand that although a job applicant may be highly qualified, a conviction history may make the applicant appear to be more of a liability rather than an asset. Below is a sample human resource policy related to the employment of people with conviction histories. You can create and implement a fair and practical hiring policy that will ensure your compliance to relevant federal, state, and local law, minimize liability risks, and assist you in attracting and retaining a skilled workforce while keeping costs down and improving productivity.

Sample Policy

To maintain a safe, secure, and productive work environment, [Company X] may require background checks of prospective employees who have received a specified conditional offer of employment. Applicants who are required to undergo a criminal and/or credit background check must be notified of this requirement during the job interview. If a background check is done the applicant must be informed that:
(1) the applicant’s background check may be requested from a consumer reporting agency or from the [State repository, if applicable] and (2) the applicant will be notified whether or not the background check was requested, and if requested, the applicant will be informed of the name and address of the reporting agency that provided the background check.

An applicant will not be denied employment because of his or her conviction record unless there is a direct relation between the conviction charge and the job duties or responsibilities or unless hiring the individual for that specific position would pose an unreasonable risk to people or to property. Employment for certain positions may be restricted by federal, state, or local laws that limit positions with certain specific job requirements.

[It is always good to have a person who is trained to understand criminal record restrictions that are imposed on specific positions that exist within your company. This individual should also be very knowledgeable of the criminal record reporting systems that exist, understand criminal charges, dispositions, sentencing, and available criminal conviction relief (i.e. expungement, certificates, restoration of rights, clemency/pardon), etc.]

[Depending on the size of Company X, it may be necessary to create procedures for submitting a criminal record review request and more specifically, to indicate a chain of command for decisions made about criminal records. For example, an HR Specialist can request that a criminal background check be done but the HR Manager is trained to read criminal record reports and is the authorized personnel who receive the information to determine the relationship and risk factors about the criminal record relative to the job the applicant is applying for. This person should also have all other relevant information to include in the assessment particularly evidence of the applicant’s rehabilitation.] A criminal record review may not be required for the following positions...:

[There may be jobs in Company X that do not warrant extensive background checks because of the work location, potential duration of employment, limited risk based on job duties, etc.]
Standards for Reviewing Criminal Records

1. A criminal conviction will not automatically disqualify an applicant for a particular job. Factors that will be considered in making a determination whether a criminal conviction will exclude an applicant from further employment consideration include but are not necessarily limited to:
   - the type of crime.
   - the frequency of violations.
   - the applicant’s age the date the crime occurred.
   - the time elapsed since the conviction(s) or completion of sentence(s).
   - the applicant’s entire work and education history, including employment references, recommendations, or other evidence of rehabilitation.
   - the particular duties of the position.

2. Failure to provide complete and factual information pertaining to any criminal conviction within the previous [10 years, for example-this number could be less based on any dissemination limits imposed by the state or that the employer feels is sufficient] will be sufficient cause to bar the applicant from employment or to remove the individual from his/her position, regardless of the seriousness of the offense.

3. The final responsibility for determining whether an applicant’s criminal conviction record excludes him/her from employment rests with [the authorized decision-maker] after consultation with the hiring manager [or whoever interviewed or had direct contact with the applicant]. The authorized decision-maker will notify the hiring manager by memo [may want to decide if electronically or hard-copy only for files] whether the applicant is cleared for employment or barred from employment. The criminal record report should not be disseminated.

Applicant Review of Criminal Record Report

1. The hiring manager shall notify the applicant in writing whenever s/he is excluded from employment due to the results of a criminal record review within fifteen days of making the decision.

2. An applicant who is excluded from employment due to his/her criminal record report shall have the right to review the report and offer an explanation. These rights should have been provided in writing upon offer of employment (verification of receipt of these rights in writing should have been obtained by the prospective employee and put in the company files). The hiring manager shall refer the applicant to [the authorized decision-maker] to dispute any criminal record report.

3. [The authorized decision-maker] will verify any disputed criminal report and conduct a new assessment based on any new and relevant information provided.