

Be Sure Background Checks Are Thorough

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It's becoming increasingly common for organizations to require background evaluations of prospective employees or volunteers.

As an employer, be sure not to shortchange this process. Failing to perform a thorough evaluation may have larger repercussions than not performing one at all.

Legal Considerations

Whether organizations screen potential applicants themselves or seek the services of an outside agency, the process should be given careful attention.

Employment laws vary by state, as do what the states themselves report as arrests and criminal convictions. Another consideration is adverse actions or civil rights violations at the federal or state level.

Whether you perform this service or retain assistance, the same legal obligations apply to human resource professionals as apply to the organization or individual responsible for actually screening the individuals.

There's no shortage of companies in today's marketplace who advertise they can run inexpensive, instant background evaluations for your organization.

For less than \$10, it's easy to find companies that will provide "national background searches." It's critical to know where these organizations are obtaining their information, how old it is and the legality of its use. Choosing the wrong company could bring false assurance, which could prove disastrous in the long run.

Criminal background evaluations can also be completed through direct fingerprinting using an agency approved by the government. These may prove more accurate, but they will take longer and cost more to conduct.

Search Differences and the Risks Involved

Unfortunately, there is no truly comprehensive national criminal history database in the United States that is publicly accessible. Proprietary online databases capture their data in a variety of ways.

Further complicating this, state and local jurisdictions don't all report the same infractions to these services. So, when searches are run, your results can vary widely. For example, some counties will report felonies and not misdemeanors, while states such as New York won't report arrests pending adjudication.

Most searches of databases use name matches that could produce information that is not applicable to the subject that is being examined. To rely on this type of information for hiring decisions could prove disastrous.

Hiring someone with a violent record that wasn't discovered could place your organization or personnel at risk. Likewise, not hiring someone because of what the background evaluation produced could also pose a problem. A "false positive" could irreparably harm a person's reputation. If this criterion was used in your hiring decision, not disclosing the result to the applicant could fuel legal action.

Some states do not allow certain types of convictions to enter into the employment hiring process. This information may not always be disclosed by your screening provider.

The Fair Credit Reporting Act

The Fair Credit Reporting Act is federal legislation that also regulates the background screening industry.

It requires that adverse information found in a background evaluation disqualifying someone from employment can't be used unless the information is first verified as accurate and is the most up-to-date and available publicly held information.

The Screening Process

Whether someone is applying for permanent employment or a volunteer position, organizations today, more than ever, must perform their due diligence. The background screening process should be a multi-faceted approach and can include:

- Comprehensive signed applications that conform to your applicable state's employment regulations and include authorizations to conduct background screening, credit checks and motor vehicle reports
- Resume from the applicant
- Face-to-face interview
- Reference checks from prior employers and co-workers
- Confirmation of academic credentials
- Credit check
- Drug testing
- Motor vehicle report
- Internet search
- Comprehensive criminal background evaluation

The check should involve a Social Security trace that verifies the applicant's history of previous addresses, etc.; national sexual offender search; national, state and local criminal records search; and search of the Office of Foreign Assets Control.

International Background Checks

If you need to perform an international background evaluation, contact the embassy of the person's nation here in the United States to find out if its government has public criminal records. If it doesn't, don't hire an online database search firm. Rather, retain a private investigation firm that works in the country where the person of interest is located.

Interpreting Results

Almost as important as collecting accurate, timely information, is how to read it and what to do with it. Organizations should have a defined set of pre-established basic criteria that constitute their hiring practices.

A detailed listing of criminal or other offenses can be predefined that may preclude an individual from being retained for your organization.

The process by which you communicate these results should be documented. This is especially helpful if your hiring decisions are decentralized or performed by numerous individuals.

If these criteria are to be used, proper disclosure needs to be made. Proper care must be exercised not to unfairly discriminate against the applicant based on what was discovered through your searches.

An Ounce of Prevention

Spending some time and money on the front end could prevent headaches and costly litigation after the fact. If you're unsure of the process, consult with professionals to provide the appropriate guidance to avoid potential damaging issues from arising.