

Employment law and the hiring process



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Employment Law and the Hiring Process

Overall understanding of conducting employee background checks

Background checks can be useful tools for employers; searches of criminal records or employment reference checks can screen out applicants who have a history of inappropriate or dangerous behavior. Majority of the times, companies assume that the candidates are telling the truth on their resumes. Majority of the times, applicants are truthful, but there are few parts where they can hide the things from you. Background checks need to take place to guarantee that your corporation is hiring the right individual. Also, confirmation of academic credentials and licenses helps confirm that only skilled applicants are employed. Reference checks, credit reports, and criminal background checks also can verify the integrity and financial soundness of employees who will handle the institution's financial assets. A host of other reasons, including immigration status verification, records, in their employment decisions (Retrieved from [www. selfemployed. com](http://www.selfemployed.com)).

The reason background checks are done and are essential are:

It Highlights Criminal History

One of the critical motives why corporations choose for pre-employment background checks is to flag any previous illegal history of the applicant. Knowing the candidate's criminal history, the employer can make a final choice. Occasionally, criminal history suggests minor charges on the applicant. However, to ensure whether the applicant is appropriate for employment or not, a criminal history check needs to take place.

It Avoids Liability

What if you hire a person for one of your companies truck driver position without doing a background check on the driver. Then, one particular day he has a major accident due to being drunk driving under the influence. Of course, he gets arrested by the police and comes to find out he has two DUIs in the past. Since you didn't run any background checks, there is a high probability that your company is considered accountable due to your carelessness.

It Ensures Workplace Safety

There are chances that you'll conduct interviews of candidates that are treacherous. It could be sex predators to vicious criminals; you cannot take the risk of hiring them. But what may happen if you fail to do a background check and hire a sexual predator or a violent criminal? It will put your workplace safety in a compromise situation. Every company recognizes that workplace safety is one of the highest concerns and if it is compromised, then there are probabilities that you will be held liable for it.

Job Competence is Important

For employers, confirming the claims that are made by job applicants is essential. Rather it is the job history or the educational qualifications; the company has to have a reliable way to make the screening process section of the applicants a success. You could not be sure about your hiring decisions if you didn't conduct a background check.

It Ensures That You Have Made a Right Decision

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It all comes down to peace of mind. It is apparent that every company wants its company to succeed that is why you'll seek out the best candidates.

Even though the employment screening processes are complicated and can be very stressful. It's such a lengthy process, but you do what is best for your company. Running background checks is as vital as anything else if you want to make sure you're hiring the right person to fit your company.

The Bottom Line

You need to be in-depth in your employment screening process, and that is only likely with an extensive background check on each candidate. So, since no employer wants their workplace safety to get compromised or go through the stressful employment screening process again; it is best to run background checks to make clever decisions. It is the best approach for you (Retrieved from www.theselfemployed.com)!

Identify and discuss two types of background checks

The two primary types of background checks are generally referred to as credit checks and criminal history checks. The term "credit check" is a bit misleading because most credit checks sought by employers involve significantly more information than just someone's credit history. The Fair Credit Reporting Act (FCRA), which covers the use of credit checks, refers to "consumer reports" that may include information on an individual's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, and mode of living. Consumer reports may also contain criminal background checks, showing arrest and conviction

records, confinement records, and sex offender lists or registrations, amongst other things (Don, E., 2013).

Background types administered adequately in the company

First employers must obtain a written release from any individual before he or she is subjected to a background check. The release must be its own document, separate from an employment application or other policy or manual, and must contain a clear and conspicuous disclosure to the individual that a consumer report is being requested. When an investigative consumer report is requested, additional procedures are required, including informing the individual that he or she has the right to demand additional information about the nature of the investigation. Second, in engaging a consumer reporting agency to conduct a background check on an individual who has provided consent, employers must certify that the consumer report will be used for employment purposes only; that the information will not be used in violation of federal or state equal employment opportunity laws. Third, once an employer elects not to hire an individual based on information in the report, the employer must, before taking adverse action, provide the individual with a copy of the consumer report and the FTC's "A Summary of Your Rights Under the Fair Credit Reporting Act." The purpose of these disclosures is to give the consumer an opportunity to dispute any inaccurate or incomplete information (Herrera, S. 2009).

Describe five employee drug testing procedures you should ensure in order to comply with state drug testing laws.

Five employee drug testing procedures are Urinalysis, Breath- Alcohol test, Blood test, Hair sample, and Oral fluids- Saliva.

There is a multiple of different bodily specimens that can be chemically verified to detect evidence of current drug use. Even though some state laws dictate which sorts of tests can be administered, many options are technologically feasible. Urine is a more frequently used specimen for illicit drugs, reflecting SAMHSA's guidelines, and breath is more common for alcohol, indicating DOT's guidelines.

Urinalysis- Outcomes of urine test demonstrates the presence or absence of drug metabolites in an individual's urine. Metabolites are drug deposits that stay within the body for some time after the effects of a drug have worn off. It is significant to note that a positive urine test does not primarily mean an individual was under the influence of drugs at the time of the test. Rather, it detects and measures the use of a specific drug within the previous few days and has become the de facto evidence of current use.

Breath- Alcohol test- A breath-alcohol test is the most common test for finding out how much alcohol is present in the blood. The individual being tested blows into a breath-alcohol device, and the results are given as a number, recognized as the Blood Alcohol Concentration (BAC), which displays the amount of alcohol in the blood at the time the test was taken. BAC levels have been linked with impairment, and the permitted limit of 0.08 for driving is in place for all states at this time. Under DOT regulations, stopping someone from performing a safety-sensitive task for a specific amount of time (usually between 8 and 24 hours) is a BAC of 0.02, and a

BAC reading of 0.04 or greater is measured to be a positive drug test and needs abrupt elimination from safety-sensitive functions. Under DOT regulations, an individual who tests at the 0.04 BAC level may not recommence job responsibilities until an exact return-to-duty process has been completed.

Blood test- A blood test measures the actual quantity of alcohol or other drugs in the blood at the time of the test. Blood samples also give a precise measurement of the physiological drug actively in an individual at the time the sample is taken. Even though blood samples are a better detector of current consumption than urine samples; there is an absence of published data correlating blood counts for medications and impairment with the equal degree of certainty that has been recognized for alcohol.

Hair sample- Analysis of hair samples delivers a much lengthier testing window. Giving a thorough drug uses history going back as far as 90 days. Just like the urinalysis testing, hair testing will not show you evidence of first-hand impairment, but only the past use a specific drug. Also, hair testing cannot be used for alcohol use. Hair testing is the least aggressive form of drug testing. Therefore privacy issues are decreased.

Oral Fluids- Saliva or oral fluids are collected from the mouth and will be used to detect any traces of drugs and alcohol. Oral fluids are easy to obtain by a quick swab of the inner cheek, this is the most common gathering method. Harder to adulterate or substitute, and may be better at detecting specific substances, including cocaine, marijuana, and methamphetamines/amphetamines. Drugs remain longer in urine than in

oral fluids, so oral fluids are better when determining current use and impairment (Retrieved from [www. datia. org](http://www.datia.org)).

Briefly discuss Bona Fide Occupational Qualification, Affirmative action preference, and Promotions.

According to (Walsh, D. J.) Bona fide occupational qualification is the only way that a company can overcome in cases linking facially discriminatory guidelines or practices where the employer readily admits to using the protected class as a basis for making employment decisions but maintains that there is a sound business reason for doing so. Arguments for BFOQs based on the discriminatory preferences of customers, coworkers, or clients are usually unsuccessful. Otherwise, employers could shirk their responsibilities by blaming others: “ I would like to hire a woman as vice president, but our senior managers are old-fashioned and would not be comfortable dealing with her.” This would leave a gaping hole in anti-discrimination laws.

Affirmative action preference often takes the form of good employment practices, such as identifying and encouraging more diverse applicants, posting all employment opportunities, eliminating selection criteria that impose unnecessary barriers to employment, and offering extensive development and mentoring opportunities

First, there are lines of progression in work organizations such that promotions usually occur out of particular positions. Thus, if the effect of initial hiring decisions is to segregate some groups into dead-end jobs from

which promotions are not typically made, that effect will also manifest itself in future promotional decisions (Walsh, D. J).

The action that should be taken before using Bona Fide Occupational Qualification is knowing the situation knowing if the job situation fit for BFOQ. Ex. You cannot hire a female that is younger pretty as a cashier versus older gentlemen based off looks, because this can put you in risk for a lawsuit. The older gentlemen could be a cashier just like the pretty cashier.

The action that should be taken for affirmative action preferences is making sure affirmative action is put in place. When there is more affirmative action, there is less discrimination.

According to www.aaad.org actions that should be taken for promotions is creating a solid promotion policy. One of the worst things you can do is promote an employee without making sure you have a robust, effective and established promotion policy. Discrimination lawsuits related to promotions are most common when there is no standard promotion policy, or it is inconsistent or not well documented.

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