

Safe Hiring Tools

Have each job applicant sign a consent form for a background check, including a check for criminal records, past employment and education.

Announcing that your firm checks backgrounds may discourage applicants with something to hide, and encourage applicants to be truthful and honest about mistakes they have made in the past.

Employment applications should ask about criminal records in the broadest possible terms allowed by law, and should not be limited to felonies.

Towards the end of an interview, advise applicants that the firm will perform a criminal background and reference check as a standard business practice, and ask whether the applicant has any concerns to share. Good applicants will shrug off the question, while applicants with a problem may either reveal something or withdraw.

Applicants should also be asked during an interview what they think a former employer will say about them. For example, "If we were to contact past employers, how would they describe your job performance?" Since the applicant has signed a release and has been told such checks may occur, they may be more motivated to reveal information about past jobs.

Applications must clearly state that any false or misleading statements or material omissions are grounds to terminate the hiring process or employment, regardless of when discovered. This is particularly important if a criminal record is found. Under current law, a criminal record may not be used to automatically disqualify an applicant unless there is a sound business reason. However, if an applicant has lied about a criminal matter, the falsehood can be the basis for an adverse decision. If employment begins before a background check is completed, state in writing that employment is conditioned upon a background report that is satisfactory to the employer.

Verifying past employment is probably the single most important tool for an employer. Generally speaking, past job performance can be an important predictor of future success. Some employers make a costly mistake by not checking past employment because past employers may not give detailed information. However, even verification of dates of employment and job title is critical because an employer must be concerned about unexplained gaps in the employment history. Although there can be many reasons for a gap in employment, if an applicant cannot account for the past seven to ten years, that can be a red flag.

It is also important to know where a person has been because of the way criminal records are maintained in the United States. Contrary to popular belief, there is not a national criminal database available to most employers. Searches must be conducted at each relevant courthouse, and there are over 10,000 courthouses in America. However, if an employer knows where an applicant has been, it increases the accuracy of a criminal search, and decreases the possibility that an applicant has served time for a serious offense.

Finally, documenting an attempt to obtain references can demonstrate due diligence. Obtain a listing of all past addresses for seven to ten years. This is also needed for a criminal search. Include future screenings in the consent language. This becomes important if a future investigation is required for some form of workplace misconduct. Check for criminal records. Since criminal records are public information, employers can check at the local courthouse. An employer may consider convictions or cases currently pending, but not arrests. Also, certain cases may not be legally used for employment decisions. There are services that can obtain such information from courthouses all over the United States, as well as provide other assistance. These ten tools cost nothing, can be implemented by employers almost immediately, and go a long ways towards avoiding workplace problems.