

# WHITE PAPER

## Establishing a Best Practice Background Screening Program

*A look at the legal, financial and business considerations.*



Data Research Network, Inc., dba: HIRE~SAFE®, is a full service Consumer Reporting Agency providing compliant Employment Background Screening, Drug Testing, Tenant Screening, Legal Right-to-Work Verification, Integrity Assessment Profiles, Harassment Investigation and Business Due Diligence. Established in 1997 and a licensed California Private Investigator #25313, all reports produced by Data Research Network, Inc., dba: HIRE-SAFE® are fully compliant with the *Fair Credit Reporting Act, 15 U.S.C. §1681, et seq.*

# CONTENTS

<b>Introduction</b> .....	3
Why Do Businesses Need Background Checks? .....	3
The Legal Reasons for Background Checks .....	3
<b>Where to Begin</b> .....	4
Identify Motivating Needs .....	4
Consider Organizational Impact .....	5
<b>Selecting a Screening Strategy</b> .....	5
How Background Checks are Typically Completed .....	5
Identify What Screening is Needed for Each Job .....	7
Substance Abuse Testing .....	9
Legal Right-to-Work Verification .....	9
Create and Follow Screening Policies and Procedures .....	10
Audit Your Hiring Processes .....	11
<b>The Legal Restrictions Employers Face When Conducting Checks</b> .....	12
Fair Credit Reporting Act (FCRA) Employment Screening Limitations .....	13
The Four Steps for Basic FCRA Compliance .....	13
The FACT Act .....	14
ADA Screening Limitations .....	16
EEOC Screening Limitations .....	17
<b>Following Up on the Background Results</b> .....	17
Respond to Appeals .....	17
Train Employees .....	17
Understanding the Return on Your Screening Investments .....	18
Identify Overall Benefits .....	18
<b>Summary</b> .....	18

# INTRODUCTION

## Why Do Businesses Need Background Checks?

Businesses need background checks to ensure they hire the right people the first time around. Background checks are logical business practice because they:

- Are devices to help companies hire suitable employees.
- Can be used with current employees during investigations.
- Verifies candidates are who they say they are. This reason alone has become a great impetus for companies since September 11, 2001, when several of the terrorists involved in the airline hijackings used identification that was fraudulently obtained.
- Fulfills “due diligence” requirements and protects you from negligent hiring or retention lawsuits.

The end of the last century brought a new form of lottery to the forefront—the employment lawsuit. Unfortunately, several of the multimillion dollar verdicts awarded over the past years have been employment related cases. For many years, human resource professionals have been advising managers and supervisors to document everything. The wisdom of these words has become even more important as employers learn that the best defense to many employment actions is found in the documentation leading up to a decision.

It is also helpful to have policies that define how decisions are to be made, and how problems will be addressed. Many times employees will allege that they have no knowledge of what is expected or how decisions are made. Having policies in a handbook, or separate policies that are to be signed and maintained in a personnel file, will assist in defeating these claims of ignorance. Policies also help eliminate unnecessary misunderstandings, provide a source for supervisors to consult when they are unsure of what action to take and help inform employees of what is expected of them in an organized, easy to understand manner.

## The Legal Reasons for Background Checks

“Due diligence” describes the attention and research legally expected of a person or company. For example, if you hire someone who has a criminal past and place them in a position where they could harm another employee or patron, your company could be sued. Why? Because you could have known about this person’s past and should have known if you would have done a background check. We are not suggesting you shouldn’t hire someone with a criminal past. For the right positions, the ex-convict could be a good match. But you should know upfront so that you can place the individual in the right position to manage the situation, not let the situation manage what happens after an incident. Here are some examples where a \$50 background check could have saved these companies a lot of money. **NOTE: The average jury award for negligent hiring is over \$800,000.**

### North Carolina

In North Carolina an employee shot and killed 3 employees and injured a 4th. Plaintiffs sued for negligent hiring. Verdict: \$7.9 million.

### California

In Oakland a carpet cleaning company unknowingly sends an ex-convict into an upper Rockridge home where he murdered a pediatrician. Verdict: \$11.5 million.

In addition to the settlement, organizations incur other direct costs:

- Decreased employee morale and loss of productivity
- Increased turnover
- Building repair and cleanup
- Business interruptions with customers
- Increased workers' comp claims, medical claims, premium rates
- Additional attorney fees

***The easiest way to fire employees  
who are creating legal liability problems?  
Don't hire them to begin with!***

Applicant background checks have significantly increased over 10 years. Here's what has happened as reported by SHRM (Society for Human Resource Managers).

#### **Percentage of Businesses Doing Pre-Employment Checks**

<b><i>Type of Check Performed</i></b>	<b><i>1996</i></b>	<b><i>2006</i></b>
Overall General Background Check	66%	82%
Criminal Record Check	51%	85%
Credit Record Check	19%	36%
Education Verification (Degrees)	51%	93%
Motor Vehicle Record Check (MVR)	40%	70%
Previous Employment Verification	40%	88%

## **WHERE TO BEGIN**

### **Identify Motivating Needs**

The first step in creating a financially and legally rewarding background screening process is to understand your company's needs so that you can ensure they are met. As an organization, identify your greatest concerns. Here are some examples:

- Reducing Turnover
- Avoiding Violence in the Workplace (threats or actual violence)
- Reducing Theft
- Reducing Loss of Proprietary Information
- Reducing Training Costs
- Avoiding Negligent Hiring or Retention Lawsuits
- Increasing Staff Productivity & Product Quality

## Consider Organizational Impact

Once you identify your greatest concerns, you can begin to create a measurement strategy to identify if pre-employment screening is helping you to achieve your objectives—for example, reduced turnover or loss prevention. Ask yourself these questions to focus how to begin tightening your pre-employment screening:

1. What will you measure to know if your background screening process is effective?
2. Do you currently have a process in place to complete this measurement?
3. Can it be measured in dollars? If so, what is the measure now in dollars?
4. What would you like it to be?
5. What's the value of the difference? What is the value over time? 6 months from now? 1 year from now?
6. Do you have the tools and resources available to complete this process and/or measurement tracking?
7. What can you do today to begin to make a difference?

## SELECTING A SCREENING STRATEGY

The next step is to complete the actual background check—to find out if an applicant is telling the truth on his or her resume and application. Background checks can protect you against liability, showing a “reasonable effort” to protect your current employees, customers, and patrons. However, not all checks need be nor should be performed for every job title. The typical types of background checks include:

- Identity
- Criminal Record Search
- Civil Record Search
- Previous Employment Verification
- References
- Legal Right-to-Work Verification
- Education Verification
- Professional Licensing
- Motor Vehicle Records
- Credit Reports
- Drug Testing
- Integrity Assessment Profiles

## How Background Checks are Typically Completed

To complete a background check, you will need to obtain a name, social security number, and addresses for the past seven years. Here's a heads up, you usually can't obtain a birth date before a job offer—otherwise you could be liable for age discrimination. For this reason, we recommend you complete a background check AFTER a job offer is made, but contingent upon passing the check and BEFORE they start work.

The date of birth is needed for a thorough background check. So the social security number, date of birth along with the addresses and phone numbers are used to validate identity. This is usually the first type of check you would want completed. If the identity is correct, then you can complete additional types of checks like criminal, degrees, and references. If identity is in question, you would not want to continue paying for any other checks until the identity issue is resolved.

There is some confusion as to the role of the date of birth in the hiring process. The danger lies in the early stages of the hiring process where the date of birth could be construed to be a tool of age discrimination. It is recommended that the date of birth not to be a part of the initial employment application form. However to establish and verify identity, the date of birth is critical in the background screening process. For instance, driving records are generally not processed by the state agency without an accurate name and date of birth combination. Properly formatted consent documents clearly state that the date of birth is required for identification purposes only, which is fully compliant with the Equal Employment Opportunities Commission (EEOC).

The following is a summary of the type of checks usually required by businesses.

<b>Type of Check</b>	<b>How It's Conducted</b>	<b>Who Can Perform It</b>
Identity	This is done electronically and almost instantly through a series of database checks.	Outsourced to authorized Proprietary providers.
Criminal Records	This is done at the federal, state and county levels—all of which maintain separate records. National Criminal Profile is an online database that can identify records that need additional research. For complete legal coverage, however, you would need to go to the source documents and not use warehouse databases that can become outdated quickly. At least 9% of the adult population have a criminal record.	These are public records available to anyone with a signed release. However accessing remote or multiple jurisdictions can be cumbersome for individual employers.
Civil Records	Civil records are also kept at the county level. Currently no connection exists between the record departments. For complete legal coverage, you would need to go to the source documents and not use databases that can become outdated quickly. Civil records give a complete picture of possible employment related lawsuits for anyone considered for a supervisory position.	These are public records available to anyone with a signed release. However accessing remote or multiple jurisdictions can be cumbersome for individual employers.
Employment	Previous employers are called to verify titles and salary. This is a time consuming task. On average, 33% of applicants misrepresent their work history.	Can be done in house, but because of time commitment, this is usually outsourced.
Education	Verification of education levels and degrees. Done in person with the learning institution.	These are public records available to anyone with a signed release. Can be done in house, but because of time commitment, this is usually outsourced.

Type of Check	How It's Conducted	Who Can Perform It
Licensing	Verification of professional licenses. Done in person with the licensing board.	These are public records available to anyone with a signed release.
Motor Vehicle Records	Driving records can be released to appropriate consumer reporting agencies with a signed release.	These are public records available to anyone with a signed release and state authorization of compliance.
Credit Reports	Credit records can be released to appropriate consumer reporting agencies with a signed release.	Access to credit records is tightly controlled by the credit bureaus.
References	Done in person to verify work habits and skills.	Can be done in house, but because of time commitment, this is usually outsourced.

## Identify What Screening is Needed for Each Job

The next step is to identify what screening is needed for each job title. One idea is to divide your applicants into job categories. Here is an example:

### Category 1

Individuals who have access to your workspace only. Examples would be cleaning staff, vendors or contractors, or employees who do not have access to your systems or operational processes.

### Category 2

Most of your regular or part-time staff that have access to your day-to-day workspace, systems or operational processes. This will probably be your largest category.

### Category 3

Individuals who have a high degree of access to critical systems or information. Examples would be senior management, department heads, internal auditors, corporate security personnel, IT security personnel, and CFO personnel who have access to funds disbursement. Now decide what checks should be performed on applicants from each category. Your categories might break out like this:

#### CATEGORY 1

SSN Trace Report

Drug Screening

Criminal Background

#### CATEGORY 2

SSN Trace Report

Drug screening

Criminal Background

Education Verification

Previous Employment Verification

Motor Vehicle Records

#### CATEGORY 3

SSN Trace Report

Drug Screening

Criminal Background

Education Verification

Previous Employment Verification

Motor Vehicle Records

Civil Background

Professional Licenses

Finally, identify the criminal criteria that disqualify applicants. You will probably want to disqualify individuals from consideration if their crimes fall within the following categories:

**NO TIME LIMIT or a 10 YEAR LIMIT: FELONY**

Homicide/Attempted Homicide	Crimes Against Persons; i.e. Manslaughter
Burglary	Fraud
Child Molestation	Elder Abuse
Crime Against Property	Robbery
Theft	Felony Battery
Arson	Felony Drug Conviction
Felony Assault	Other Non-Violent Felonies

Any 2 Felony convictions for any Felony offense; either Violent or Non-Violent

**7 YEAR LIMIT: MISDEMEANOR or VIOLENT MISDEMEANOR**

Sex Offenses	Theft
Simple Assault	Weapons Violations
Fraud	Child Abuse
Gambling	Domestic Violence
Drug Possession	Prostitution
Driving While Intoxicated	Embezzlement

***Note: All time limits should be calculated from the date of the conviction or the date of release from jail, prison, probation or parole whichever is most recent.***

Now you are ready to perform the background check. Make sure you are consistent in your application of policies, procedures, and criteria. Most importantly, abide by the FCRA guidelines or limitations discussed later in this document. Some final points to consider during the process:

- Create and follow screening policies and procedures.
- Audit your hiring processes—syncing job descriptions, application forms, release forms, and interview questions to ensure background information is obtained.
- Remember to keep track of how this is affecting the overall organizational goals you are trying to achieve by completing background screening.

## Substance Abuse Testing

The use of illicit drugs on the job by employees creates multiple layers of exposure to liability and potential problems for an employer, including:

- A dangerous work environment
- Increased absenteeism
- Inferior work product
- Low workforce moral
- Increased Worker's Comp rates due to higher frequency of accidents
- The physical danger to employees and customers from workers under the influence of drugs

The most effective way to minimize the liability from illicit drug use is to make sure not to hire anybody with a substance abuse problem. A pre-employment drug testing program will identify and deter the chronic drug abuser. An employer has multiple applications for drug testing in the workplace:

- Pre-Employment
- Reasonable Suspicion (only performed by certified Drug Awareness managers)
- Return-to-Work
- Post Accident
- Random Testing

With the exception of Random Testing in non-DOT mandated organizations, virtually all of the other drug testing options are available for an employer to utilize. Random Testing for non-DOT companies is subject to more localized zoning and state laws. In all cases, before a Drug Testing program is implemented a Substance Abuse Policy should be in place. The best of intentions by an employer can be reversed if a weak or non-existent Substance Abuse Program is challenged in court.

The most common employment-related drug test is the 5-Panel Urinalysis, testing for:

- Marijuana (THC)
- Cocaine Metabolites
- Opiates
- Amphetamines
- Phencyclidine (PCP)
- Includes Medical Review Officer service (MRO)

## Legal Right-to-Work Verification

The employing of undocumented workers has recently been classified as a violation of the RICO Act (Racketeer Influenced and Corrupt Organizations Act) by the federal government. Under these strict laws substantial fines and jail time are being imposed upon business owners, directors, managers and officers whom are being individually charged with criminal acts.

The simple solution is for an employer to utilize the new federal E-Verify program, or the enhanced version providing a paperless system to verify an individual's legal right-to- work in the USA. The enhanced version is totally electronic including a digital signature and advanced warning notification of expiring documents. Many states have begun requiring some form of legal right-to-work within their borders, as well as for federal contracts over a specific amount. Failure to accurately screen workers for legitimate documents is no longer a defensible position for an employer.

# Create and Follow Screening Policies and Procedures

Your policies and procedures are the backbone of business practices and provide the legal foundation upon which background screening is built. Successful background screening is tied to policies and procedures that **C A R E**:

- Criteria for employee conduct.
- Application procedures that emphasize required skills and performance standards.
- Rejection requirements.
- Explanations of how results are communicated.

Make sure you:

- Require a completed job application from all applicants.
- Ask for current and prior residences and places of employment for the last 5 years.
- Have the applicants sign an authorization to perform a background check or drug test consent (separate documents).
- Make sure you elect to perform a criminal record search in all documented counties of residence for at least the previous seven years.
- Compare the list of addresses returned against those found on the application to the SSN Trace Report. If there are gaps or omissions, resolve them before you proceed with hiring that particular applicant.
- Make your employment offer contingent on the successful passing of the drug screen and background check.
- Perform a drug test if your policy is to drug test new and rehires. The drug test should be at least a 5-panel test.

If you did a thorough check, but failed to uncover any negative information, you should not be held liable for making a negligent hiring decision. If you do have procedures for performing such background checks, make sure you follow those policies, review the information collected, and contact the appropriate references. Nothing is worse for an employer than to discover that negative information was returned during a background investigation, but that information was never revisited before the individual was hired.

## Screening Actions to Avoid

- Asking for medical information or a medical exam before the post-offer/pre-employment stage.
- Asking for worker's comp history.
- A policy that does not provide for applicants to get copies of requested credit reports.
- A policy where applicants who are denied employment or advancement based on their credit reports are not notified.

# Audit Your Hiring Processes

You may want to use a checklist like this to ensure consistency through all stages of the hiring process. Review your existing policies and procedures against these checks. Remember, you need to have it in writing as proof of your efforts. Review the following charts for suggestions and guidance:

## Employment Application Checks

	Yes	No
All fields completed?		
Any gaps in time?		
Does it document past history and timelines that can be verified?		
Is it signed and dated in ink?		
Is the pre-employment background screening release signed and dated?		
Does it warn of consequences for providing false information?		
Is the application over 90 days old? No application should be considered after 90 days without a re-interview of the applicant.		

## Pre-Employment Background Screening Checks

	Yes	No
All references checked?		
Social security number correct?		
Any inconsistent information identified?		
Convicted of any felonies/misdemeanors?		
Are all necessary professional licenses in order?		

\*ASIS reports that 5% of all professional applicants falsify some aspect of their educational background.

## Interview Checks

	Yes	No
Asks why leaving past job? The more complicated the answer, the greater the need for detailed investigations.		
Asks for explanations for any gaps.		
Explains pre-employment screening policy.		
Asks if the person has any concerns or additional information he or she would like to share—this is important to give the applicant an opportunity to explain anything that may be found during the background check.		
Verifies all information on the application form.		

## Offer Checks

	Yes	No
Is the pre-employment screening information completed?		
Are all discrepancies accounted for?		

*\*\*Note: Any investigation which included information or which results in an adverse employment decision should be retained in file for a minimum of 3 years. Any information that is gathered must be relevant and reliable.*

## Final Tips

### What You Should Consider

- Check identity first. If the identity doesn't match the information on the resume, you have a problem.
- Check all counties in which the person has lived, worked, or studied. Crimes are usually committed close to home or work.
- Match the type of checks with the job description. This can be set up with company specific job titles.
- Ask if "live" searches of records are completed. Databases become outdated quickly.
- Remember to be aware of the age of the conviction. If it happened seven years ago and will not specifically affect job duties, you may want a policy and procedure in place to handle negative information that would not preclude the person from performing well for identified job duties.
- Type of conviction—a driving ticket does not necessarily mean a propensity to harm others and is probably not a threat of violence. In summary, a criminal record may not mean that the person should not be considered for the job.

# THE LEGAL RESTRICTIONS EMPLOYERS FACE WHEN CONDUCTING CHECKS

When completing background checks, you must consider:

- FCRA Screening Limitations
- Americans with Disabilities Act Screening Limitations
- Equal Employment Opportunity Screening Limitations

# Fair Credit Reporting Act (FCRA) Screening Limitations

The FCRA:

- Applies only to background checks conducted by third parties.
- Requires disclosure and consent when requesting a “consumer report” for employment purposes.
- Applies to background checks on current employees when conducted by third parties.

Important Notes to Consider:

- You need not obtain prior notice when investigating employee wrongdoing even when done by third parties.
- Disclosure of investigative consumer report must be made no later than three days after the report is requested.
- In-house investigations are not covered, unless public records are used (this only applies in some states).
- Remember to provide copies of investigative consumer reports upon request or when adverse action is taken based on the report to the applicant.

## The Four Steps for Basic FCRA Compliance

The four steps to ensure you are compliant with the FCRA are as follows:

- Provide disclosure and obtain written consent.
- Communicate certification to the consumer reporting agency.
- Provide documents before adverse action.
- Provide notice after adverse action.

### Step 1: Provide Disclosure and Obtain Written Consent

- Separately disclose potential report request.
- Obtain written consent. *NOTE: some states also require their own written consent.*

### QUESTION

1. *Is it sufficient to include the disclosure that a report may be requested in the job application?*

*The answer is No.* The disclosure must now be provided to a job applicant in a separate document. Nevertheless, the employer may include such disclosure in the job application package as an additional notice.

2. *Is consent language in the job application sufficient, when the application is signed by the applicant?*

*The answer is Yes.* There is no requirement that the consent language be contained in a document separate from the job application. Employers must, however, make the consent language conspicuous. However, remember that the disclosure of the applicant’s rights under the FCRA must be in a separate document that does not refer to other subjects.

*3. Are there additional disclosure requirements applicable to investigative consumer reports?*

*The answer is Yes.* Where an employer seeks to obtain an investigative consumer report, the FCRA requires an additional disclosure. This disclosure, the required timing of which is different from that for consumer reports, must specify that: • An investigative consumer report, which must be clearly defined, may be obtained; and the employee or applicant may request additional information as to the complete and accurate nature and scope of the investigation.

*4. May the employer phrase a consent such that it applies not only to consumer reports related to the job application, but also to any reports that might be obtained after commencement of the employment relationship?*

*The answer is Yes.* One document can be drafted to accomplish a broad consent in this regard. The FCRA provides that the disclosure may be made “at any time before the report is procured or caused to be procured.”

## **The FACT ACT**

The FACT ACT stands as the Fair & Accurate Credit Transactions Act signed December 4, 2003. FACT excludes from the definition of consumer reports misconduct investigation reports and investigation reports regarding “compliance with Federal, State, or local laws and regulations, the rules of a self regulatory organization, or any preexisting written policies of the employer.”

Not all investigative consumer reports are equal. For example, say you suspect an employee of copying a client’s intellectual property. You hire an investigator to track down the electronic trail. You are now engaged in obtaining an investigative consumer report. True or False?

In this case, the answer is False. The FACT Act excludes from the definition of consumer reports misconduct investigation reports and investigation reports regarding “compliance with Federal, State, or local laws and regulations, the rules of a self regulatory organization, or any preexisting written policies of the employer.”

### **Step 2: Communicate Certification to the Consumer Reporting Agency**

Communicate the following to the third party background screening company:

- Disclosures and consent have been made and obtained.
- Pre-adverse action disclosures will be made if required.
- Additional investigative consumer report disclosures will be made if applicable.
- Further disclosure concerning investigative consumer reports will be made if requested.

This step is usually done all at once when the account is set up and as part of the ordering process.

### **Step 3: Provide Documents before Adverse Action**

A written notification must be provided to the applicant if adverse information is found. The notification must include:

- Copy of consumer report.
- Summary of rights prescribed by the Federal Trade Commission.
- Statement that adverse action is contemplated.

## Check Your Knowledge

### Question:

*After complying with the requirement that copies of the consumer report and FTC summary of rights be provided to the applicant or employee, how long must an employer wait before implementing an adverse action based on a consumer report?*

### Answer:

The law is silent on this point. A reasonable interpretation of this silence is that no particular timing is required by law. Some employers may wish to adopt reasonable procedures allowing applicants and employees an opportunity to respond before implementing adverse actions based on consumer reports so as to avoid potential difficulties arising from inaccurate reports. Nevertheless, this will likely be impractical for many, if not most, employers.

Also worth noting is that the accuracy of consumer reports is primarily the responsibility of consumer reporting agencies. The FTC, however, has issued three staff opinion letters stating that an employer must wait a “reasonable” amount of time after supplying the pre-adverse action materials but before taking final adverse action. These opinion letters, while acknowledging that the statute is silent on this issue, opine that a reasonable period of time is required, because the purpose of the FCRA is to allow consumers (applicants or employees) to discuss the report with employers before adverse action is taken.

One FTC staff opinion letter states that a five day waiting period between the pre-adverse action notice to the applicant or employee and final adverse action appears “reasonable,” but also states that “the facts of any particular employment situation may require a different time.”

## Step 4: Provide Notice after Adverse Action

A written notification must be provided to the applicant if adverse information is found. The notification must include:

- The consumer reporting agency contact information.
- Statement that the agency is not the decision maker.
- Statement of right to obtain a free copy of the report.
- Statement of right to dispute report.

## Check Your Knowledge

### Question:

*Does the Act now require that the employer provide an explanation to job applicants or employees about which part of a consumer report influenced the adverse decision?*

### Answer:

No

**Question:**

*Do you have to provide written notification if a consumer report contained negative information about an applicant or employee that did not ultimately influence the adverse action or would not change the result even if the report was revised to omit such information?*

**Answer:**

Under these circumstances, the employer is not technically required to forward a copy of the report or the FTC summary of rights before taking adverse action. Employers in this situation must, however, be mindful that employees and applicants enjoy a private right of action under the FCRA and may allege that the report in fact influenced the decision to some degree.

Such claims would be particularly troublesome where negative information contained in a report is inaccurate. For these reasons, and to avoid claims focusing on this technical aspect of the FCRA's requirements, an employer in this situation should consider sending a copy of the report and the summary of rights along with a cover letter indicating that this is a courtesy and that the report has been determined to be irrelevant to the decision making process. Employers may wish to review any contracts or agreements they have with consumer reporting agencies to ensure that the contract or agreement allows them to disclose to the applicant or employee a copy of the report.

## **ADA Screening Limitations**

The ADA or Americans with Disabilities Act prevents you from acting in certain ways that would discriminate against anyone with a disability. This law, when applied to background checks outlines what you cannot and can do before and after the job offer is made.

**Before a bona fide job offer is made:**

- Cannot gather medical information. Cannot inquire about the existence, nature, or extent of a disability.
- Cannot makes inquiries that would reasonably lead to the disclosure of such information.

**After a bona fide job offer is made:**

- Keep medical information private and separate from other personnel records.
- Cannot use medical information about disability against a person unless there is a business necessity.
- Use the interactive process to determine any reasonable accommodation that need to be made.

**After a job offer, here are some great hints to comply with the ADA:**

- Keep medical information private and separate from other personnel records.
- You cannot use medical information about disability against a person unless there is a business necessity.
- Use the interactive process to determine any reasonable accommodation that need be made.
- Remember that these apply only after a job offer is made.

## EEOC Screening Limitations

The EEOC or Equal Employment Opportunity Commission also affects background screening. Keep in mind that to comply with the EEOC, you:

- Cannot gather information about protected categories.
- Cannot gather information about arrests.
- Can inquire about job-related abilities if done in a nondiscriminatory manner.

Final legal thought: **The Employer is Always Responsible!**

- Employers are responsible for everything a 3rd Party Investigative Services service says and does.
- Employers are responsible for the content of hiring products.
- Employers will be responsible for discriminatory impact.
- You cannot hire someone else to discriminate for you!

## FOLLOWING UP ON THE BACKGROUND SCREENING RESULTS

This last section addresses what needs to “follow up” to establish a best practice background screening program.

### Respond to Appeals

If applicants advise that the background check results are inaccurate, then refer the applicant to HIRE~SAFE® (or your 3rd party investigation service) to resolve. –OR–

If applicants agree with the background check results, then check to see if they disclosed that information on their application and take the following steps:

- If the applicant has falsified the application he or she should be eliminated from consideration and any offers should be revoked.
- If the applicant disclosed the accurate information you should convene a panel to decide whether or not you should hire the applicant in spite of the background check failure. The appeal panel should include: HR, Legal, Security, Hiring Department head, or similar functional positions. At least three out of the four should agree on accepting the risk. Ultimately it is senior management’s responsibility to assume the risk of hiring an individual.

### Train Your Employees

Make sure you spend the necessary training dollars to make sure your employees know your policies and apply them correctly. By following these best practices, you will mitigate your risks in a measurable and cost-effective way.

# Understand the Return on Your Screening Investments

The value of the ROI (Return on Investment) for performing due diligence BEFORE an event includes:

- Avoiding the enormous costs associated with litigation
- Avoiding the negative local publicity from the news media
- Keeping you staff focused on their duties
- Avoiding the inevitable legal judgment award usually not covered by insurance
- Avoiding the cumulative negative effects over time

Pre-employment background screening and performing appropriate due diligence will add to the bottom line of any business rather than being a cost center. Plus, consider the other benefits received:

- Just telling applicants you complete background screening discourages those with problem pasts from even applying. This saves you time, effort, and headache.
- Background checks encourage applicant truthfulness and forthcoming. During the interview, reinforcing they will have a background check gives an applicant the opportunity to bring up any problems and provide an explanation for the behavior. This gives them a chance to explain something that may be difficult to discuss yet may not take them out of the running for the job.

## SUMMARY

The purpose of this White Paper is to provide a methodology for establishing a best practice background screening program. A best practice program includes identifying what you want to accomplish, developing policies and procedures that support that outcome, complying with federal laws, and tracking your success.

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