



10 Issues To Consider For Background Checks

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Hospitality employers are heavy users of criminal background checks for potential employees. Therefore, they must take seriously the U.S. Equal Employment Opportunity Commission's emphasis on these types of discrimination cases. If you are using or considering implementing a criminal background check policy to screen applicants or employees with certain criminal histories, you should take this opportunity to reevaluate your policy. Although no model policy is suitable for all employers, below are the issues you need to consider when developing or reevaluating your policy.

1. The job application: The EEOC guidance recommends that employers not ask about convictions on job applications.
2. Criminal background reports: The guidance is unclear whether the Commission expects employers to request from a third-party provider only that criminal history information that is job related and consistent with business necessity.
3. Timing: Hospitality employers may want to consider checking an applicant's background after a conditional offer of employment has been extended.
4. Arrests vs. convictions: The use of arrest records is discouraged by the EEOC and prohibited by many state laws.
5. Job related and consistent with business necessity: There may be certain jobs for which a felony theft conviction in the past five years is relevant but not so for other positions.
6. Documenting your decision: You should document the reasons you considered certain convictions to be job related and consistent with business necessity for each position hired.
7. Individualized assessments: The EEOC strongly recommends that employers conduct an individualized assessment for each applicant to allow the individual to demonstrate that he or she should not be excluded based on their individual situation.
8. Avoid disparate treatment: When making an individualized assessment, you should be careful to treat all applicants or employees consistently.
9. Do not maintain a blanket policy.
10. Train hiring managers on your criminal background policy.

The EEOC's guidance and crackdown on the use of criminal background checks will have a significant impact on the hotel industry. The complexity of laws that hotel employers must consider

when hiring employees is burdensome. Now is the time to revise your policy on conducting criminal background checks.

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