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Feature Story

Regulatory Compliance: How Does Your Program Stand Up to Increased Scrutiny?



Many employers are finding that background checks are more necessary than ever. Some applicants make false claims on job applications and resumes, others try to hide criminal pasts. Organizations may be required to screen applicants and employees due to government regulation or to meet industry mandates. Employers may choose to do so in order to protect their reputations, provide a safe workplace or to ensure they are hiring a capable and competent workforce.

The reasons why employers choose to do background checks vary, but the fact remains that any employer who chooses to use background screening must be sure to remain compliant with all relevant laws and regulations. Enforcers of these rules include governmental regulators such as the EEOC and the FTC, federal and state regulations, other regulators (such as accrediting bodies), and private party legal actions. Here's a closer look at each, and how they may affect employers.

EEOC, FTC and CFPB Regulation

The Equal Employment Opportunity Commission (EEOC) enforces federal laws that protect people from job discrimination. In April, the EEOC released their latest enforcement guidelines on the "Consideration of Arrest

and Conviction Records in Employment Decisions." The guidelines highlight the increased scrutiny employers may be under when it comes to their use of criminal records. Employers need to scrutinize their practices so as to avoid disparate treatment or disparate impact that's caused by using criminal records in making hiring decisions. The Commission has also warned that a blanket policy of not hiring persons with criminal backgrounds is not good enough, and may even be illegal.

Guidelines also encourage employers to examine the criminal background and determine whether or not it would have any effect on the job position for which the applicant is being considered.

Other governmental agencies that employers need to be aware of are the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB). The FTC is an enforcement body, and acts as a consumer protector. The CFPB was created as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and it consolidates federal consumer financial protection authority in one place. In January 2012, the FTC and CFPB signed an agreement to coordinate efforts to protect consumers, and the CFPB was given enforcement and rulemaking authority over the Fair Credit Reporting Act (FCRA) from the FTC.

As a Corporate Screening client, you're probably familiar with the FCRA, but in brief, the FCRA was legislated to protect consumers from misuse of information contained on their consumer reports, and to improve the accuracy of these reports. Employers who use background screening companies (also

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known as a Consumer Reporting Agency) need to be aware that they have to meet certain requirements, such as obtaining consent from the applicant, providing the applicant with a summary of their rights as well as copies of reports. They also need to inform applicants if the information found in the consumer report has been used against them, through specific procedures.

A recent increased focus on background screening by the EEOC and FTC has resulted in fines and settlements levied on screening firms. The FTC fined screening firm HireRight \$2.6 million for FCRA violations, and data broker Spokeo was fined \$800,000 for marketing “the profiles to companies in the human resources, background screening, and recruiting industries without taking steps to protect consumers required under the Fair Credit Reporting Act” (FTC press release, 06/12/2012).



State and Federal Legislation

Legislation regarding the use of credit reports, criminal records and additional background checks (such as social media checks)

has been passed both by the federal government and by states. A major piece of federal legislation is the FCRA. Additionally, many states have created their own guidelines on background screening, including what can be checked and how employers can use the information and many continue to consider new legislation surrounding an employer’s use of background checks. State legislation varies considerably, and one important factor employers that use a background screening company should consider during the selection process is whether or not the company provides timely information about changes to state legislation.

Additional Regulating Bodies

Background screening may also be mandated by various accrediting agencies. An example of an accrediting body that sets standards is the Joint Commission (formerly known as JCAHO). Although the Joint Commission is not a government organization, its accreditation standards are met by many medical sites. In order for a medical institution to become or remain accredited by the Joint Commission, it must run its background screening program in accordance with the standards set forth by the commission.

Private Lawsuits

There have been a number of lawsuits and class action lawsuits brought against employers regarding their pre-employment screening processes. Large settlements in some cases have resulted in increased interest and scrutiny from consumers and attorneys. Some law firms aggressively look for people who believe they were terminated or denied employment as a result of a background check. Issues employers face include the accuracy of background screening reports, as well as following FCRA guidelines. An example is a class action lawsuit filed in 2011 against Domino’s Pizza, which alleges that the company conducted background checks on applicants in violation of the FCRA.

What Employers Can Do to Protect Themselves

Employers can protect themselves in several ways. First, they should hire a trustworthy background screening company. Companies such as Corporate Screening provide employers with



customized background solutions, offer best practices standards, and serve as consultants and partners. They present employers with resources and information changing laws and regulations, and closely monitor ongoing issues in the background screening industry. Other things that employers should look for in a screening company include a professional and qualified staff, as well as industry accreditation.

Next, employers need to protect themselves by examining their background screening process and making sure that what they do meets all federal, state, industry and any additional regulation standards. Corporate Screening can help companies do so, and will assess the program against industry standards, best practices and legal compliance. Identifying any vulnerabilities allows companies to develop solutions to improve the program.

Finally, have your own experts on hand to review your employment and screening practices. Human resource and legal experts provide invaluable counsel that takes into consideration your unique situation.

Helpful Information for Employers to Review

The EEOC “Considerations of Arrest and Conviction Records in Employment Decisions” summation is available at:

http://www.eeoc.gov/laws/practices/inquiries_arrest_conviction.cfm.

The “Notice to Users of Consumer Reports” is available at:

<http://www.corporatescreening.com/corporatescreening/wp-content/uploads/2012/09/Notice-to-Users-of-Consumer-Reports.pdf>

Compliance Corner

By Kevin Neudecker, Quality and Compliance Manager

Mitigating the Risks of a Temporary Workforce

Most organizations that use background screening wish to mitigate the risks associated with the wrong hire. Corporate Screening's pre-employment background checks provide businesses with peace-of-mind as we help you foster a safe and productive work environment.

That said, here's something you should consider: the possibility that not all of the persons working in your facility are direct employees. Increasingly, organizations are employing contract and temporary workers for a variety of reasons. In 2011, US News and World Report suggested that a larger temporary workforce could be the "new normal." Numbers from the Bureau of Labor Statistics show that the number of people employed as temporary employees has been steadily increasing since the economy bottomed out in 2009.

If your organization uses temporary or contract employees, there are some important questions to consider:

- **Do you require a contracted agency to conduct background checks on its staff?** Don't assume that temporary agencies and companies who do contract work for your organization require their employees to submit to a background check.

- **How thorough is the background check that is completed on temporary staff?** Not all background checks are created equal. For example, the agency may have opted for a fast and cheap background relying on out-of-date and incomplete criminal database records.
- **Do you know how long ago the background check was completed?** Temporary workers may stay on the active roster at agencies for years. Perhaps they were screened when they first applied for the agency, but haven't been checked in several years.
- **Does the background that was completed comport with your company's standards?** You have set standards for your permanent employees who are allowed access to your facility. You should strongly consider whether or not temporary and contract employees are required to meet that same standard. You may have workers doing the same job within in your facility that have been subjected to completely different background requirements, unless you apply the same standards to both types of employees.

Allowing workers access to your facilities who have not been properly



screened could expose you to liability in the event the person causes harm. Assigning blame between your organization and the staffing agency in the event that a temporary employee was not properly screened is a legal blame game you likely do not want to fight.

Corporate Screening has long been aware of the issues that arise from employing temporary and contract employees. As a result we devised a product to help employers achieve that peace-of-mind they have with their standard workforce. CS Vendor Workforce Screening allows your organization to easily administer a program for vetting your contract and temporary employees. We can build a background screening program for you that mirrors the criteria used for permanent employees. Furthermore our online interface allows for candidates to submit to and pay for the background screening online.

For more information, visit [http://
vendor.corporatescreening.com/
default.aspx](http://vendor.corporatescreening.com/default.aspx) or contact your account representative.

Client Alert

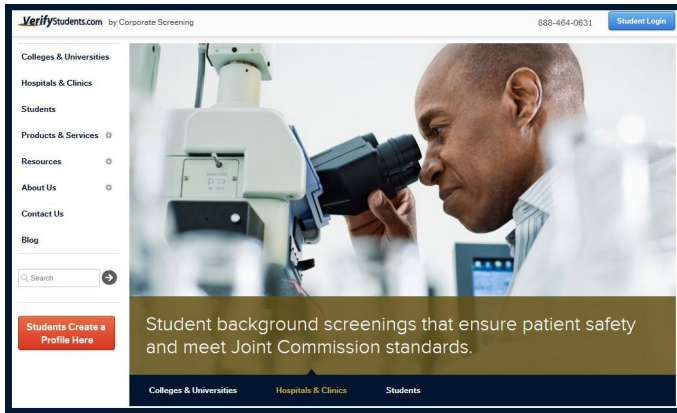
Do You Receive Our Client Alerts? Check Your Spam Filter Settings

Corporate Screening strives to keep clients updated with important industry news. To do so, we use a variety of tools. Customers visiting our website, www.CorporateScreening.com can access Client Alerts and CS News directly from the home page. An archived list of all Client Alerts and CS News is also available on the Resources page of the CS website.

In addition to accessing the information on the CS website, clients can log onto CS EASE and from the dashboard, open and read Client Alerts and News. Other vehicles we use to share timely information include our newsletter, *Screening Solutions*, as well as our blog.

One tool that we use sparingly is email. We don't want to flood your in-box with

a lot of stuff you don't really need. So when we send you a message, it's carefully considered and we think it contains important information that you don't want to miss. So if you're not receiving emails from Corporate Screening, check your spam or junk filters. You just may be missing some very important updates.



CS Products

December 1, 2012: VerifyStudents Launches

It's finally here! After months of research, development and testing, we're pleased to announce that the official launch of the "Silver" release of VerifyStudents by Corporate Screening will take place on December 1, 2012. So what's new? A lot!

Redesigned Website

The website has been completely redesigned, with a fresh appearance and exclusive sections containing information specific to schools, students and clinical sites. An expanded Products and Services option describes the products and services offered through VerifyStudents, and the site now hosts a Resources section containing helpful information. Additionally, there's a brand new VerifyStudents blog.

New Student Dashboard

Another update is the student dashboard, which provides instant access to materials when returning students login to their account. Here students can share and control access to their background report, as well as view and print forms such as authorizations, disclosures and copies of their receipts.

New Mobile Functionality

We're also pleased to announce that VerifyStudents now includes mobile functionality! The new website is mobile-friendly and accommodates to the device on which it's being viewed. Students can receive text messages informing them when their background is complete, and they also can use their mobile devices to manage their backgrounds and send them to clinical sites.

Custom-Built "In-Line Wizard"

VerifyStudents' new "In-Line Wizard" application feature is efficient and user-friendly. Preliminary testing has indicated that students appreciate the ease of use of this custom-built wizard.

The "Silver" release of VerifyStudents by Corporate Screening improves on an outstanding student background screening product.

CS Products and Services

CS's Ohio Fingerprinting Services: Convenient, Faster Results

Ohio businesses and organizations, did you know that Corporate Screening has a large network of convenient fingerprinting locations in the state? Most organizations that require fingerprints find there typically are not a lot of places they can go to for fingerprinting. Corporate Screening's large network gives you a choice of locations, and we also offer additional fingerprinting alternatives that can work for your business.

Another alternative is to arrange an appointment whereby our fingerprint experts visit you at your location. Corporate Screening is well-known in the fingerprinting business. For years, Corporate Screening has been one of the top five organizations in Ohio that submits fingerprints. This year we are the fourth largest fingerprint submitter (from more than 2,250 submitting agencies in the state). It's easy to arrange for mobile, on-site fingerprinting at your location. Contact us, and our professionally trained experts will come to you.

Electronic Fingerprinting

We've come a long way from the days of paper and ink fingerprinting. With electronic fingerprinting, the process is much faster and much easier. It uses state-of-the-art equipment that securely protects personally

identifying information (PII) and is virtually error-free. Paper and ink can be a messy and error-prone process, with problems that range from smudging and smearing, inaccurate finger rolling, to issues with the amount of ink used. Electronic fingerprinting eliminates these issues.

Corporate Screening's electronic fingerprinting process can get information back in as little as a day for persons who have no arrest history. Other companies can take up to a week or longer, and standard ink cards can take as long as three to four months! And our convenient control form has easy instructions for fingerprint technicians, so that results are sent directly to the end-user or agency that requires the fingerprint criminal history search. When fingerprinting is conducted for employment purposes, Corporate Screening offers research services of reported criminal records and will incorporate

research results into a FCRA and EEOC compliant report.

If you're in the market for fingerprinting, Corporate Screening will get you the results you need, while making it easy and saving you time.

For more details about fingerprinting, contact us toll-free at 800-229-8606.



CS News

Corporate Screening Conducting Client Updates

As you may be aware, the Federal Trade Commission (FTC) has been increasing its enforcement of the Fair Credit Reporting Act (FCRA). As part of our commitment to our clients, Corporate Screening is currently reviewing and updating client files to ensure that we have all of the necessary and up-to-date paperwork for each customer.

Updating the files ensures that Corporate Screening is meeting accreditation standards, as well as protecting our clients from possible lawsuits. Only about two percent of the background screening industry is accredited, and Corporate Screening is proud to be part of this elite few. As such,

we take our accreditation obligations, as well as our commitments to our clients, very seriously.



As we move forward, please be aware that someone from our Client Services department may contact you for additional information. Thank you for your continued business and we look forward to continuing to assist you with all of your background program needs.

CS News

Welcome New Customers

Corporate Screening would like to greet all of our new customers who have recently come onboard! We'd like to extend a warm welcome to:

- ◇ RevZilla Motor Sports
- ◇ American Income Life
- ◇ Rudolph Libbe
- ◇ Laboure College
- ◇ Au Bon Pain
- ◇ Premier Staffing Professionals
- ◇ Wilson Memorial Hospital
- ◇ Henninges Automotive
- ◇ Green City Growers
- ◇ Cincinnati State Community and Technical College
- ◇ Diamond Healthcare Group
- ◇ Personnel Solutions
- ◇ Youngstown State University
- ◇ Weber Water Resources
- ◇ Adventist University
- ◇ MarshBerry
- ◇ Interfaith Care Community
- ◇ Sinclair Community College

CS Client Alert

VerifyStudents Customers: Please Complete and Return User Agreement Addendum

As you know, the "Silver" release of VerifyStudents will go live on December 1, 2012. But as we prepare to migrate to the new system, we need all users to update their current agreement to reflect the terms of use associated with the new platform.

To access the addendum, copy the following link into your web browser: <http://www.verifystudents.com/vsaddendum2012.docx>.

Complete the addendum and return it to our attention via email at customerservice@corporatescreening.com or via fax at 440-239-6212.

If you have any questions, please contact us at 800-229-8606.



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