



SCREENING SOLUTIONS

a newsletter for the clients of Corporate Screening

SPRING 2013

RESEARCH | COMPILE | ANALYZE | VERIFY

Feature Story

Adverse Action: Ensure Compliance by Taking Appropriate Steps



As an employer, you want to make sure that you select people that are a good fit for your organization. Part of that fit is passing a background check. As your trusted background screening partner, Corporate Screening wants to remind Human Resources professionals of their obligations when taking adverse action procedures, which will help ensure compliance.

Adverse Action

If the consumer report that you receive from Corporate Screening is used in any "adverse action" (such as denying employment or promotion, reassigning or terminating employment), certain actions need to be followed. Doing so will protect your organization, as well as the rights of the individual on which the consumer report was based.

Procedures

First, you need to provide the consumer with a "pre-adverse action" notice. This consists of a letter to the applicant indicating that adverse action may be taken as a result of the consumer report, a notification that the Consumer Reporting Agency (CRA) - in this case, Corporate Screening - did not make the decision to take adverse action, a notice to the consumer of their right to dispute the completeness/accuracy of the report, and direct contact information for the CRA (Corporate Screening). Along with this notice, you must provide a copy of the consumer report



and a copy of the consumer's rights under the Fair Credit Reporting Act (FCRA) - *note, this is included in all consumer reports created by Corporate Screening.*

Following the initial notice, consumers are afforded a reasonable amount of time to respond to the pre-adverse action notice. They can contact you (the prospective employer), or the CRA (Corporate Screening) to dispute the results of the report. In general, a reasonable amount of time is considered to be 5-10 business days. If the candidate doesn't reply with intent to dispute the report within this time, the employer must send them a second notice. The second notice should indicate that you are taking "adverse action" based on the report. Again, a copy of the consumer's rights under the FCRA should accompany the report.

It's important to comply with these adverse action provisions, since non-compliance may be penalized under the FCRA. You should have specific procedures in place to ensure your company is following these important steps as part of your on-boarding policies and procedures.

Corporate Screening is happy to provide guidance to keep you in compliance, including sample documents. And if necessary, we can help you establish a program for your company.

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Compliance Corner

By Kevin Neudecker, Quality and Compliance Manager

EEOC Guidance: One Year Later



It has been about a year since the Equal Employment Opportunity Commission (EEOC) issued Enforcement Guidance on Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, causing much confusion, consternation and conjecture amongst legal experts, employers and background screeners. It is important to note that the EEOC is not a legislative body and no new laws came as a result of the Guidance, however the Guidance does determine the “strategic enforcement plan” for the EEOC for the next three years. So, where do we stand one year later?

A quick recap of the Guidance: Individuals with criminal records are not a protected class under the Civil Rights Act of 1964, however the EEOC has argued, using statistical data, that employment decisions based solely on whether or not an individual has a criminal record has a “disparate impact” on minority groups; “National data supports a finding that criminal record exclusions have a disparate impact based on race and national origin.” Thus, simply basing employment decisions on a “brightline” policy regarding the criminal histories of applicants may violate Title VII. The EEOC Employer Best Practices suggests utilizing what is referred to as an “Individualized Assessment” considering the so called Green Factors: nature and gravity of the offense or conduct; time that has passed since the offense, conduct and/or completion of the sentence; nature of the job held or sought. In short, when considering a criminal record on a potential employee, each situation should be reviewed on a case-by-case basis, and any policies that broadly disqualify employees based on criminal records may meet the ire of the EEOC.

As was expected, the new Enforcement Guidance led to more questions than answers, and much of the last year has been spent seeking clarification from the EEOC on the parameters

and more clear guidance on how to comply. Much of the criticism aimed toward the EEOC was the commission’s unilateral move to release the Guidance prior to seek public comment a practice that is fairly common. As a result, several organizations, including the Society for Human Resources Management (SHRM), formally sought clarification from the EEOC and a hearing was held at the end of 2012 allowing for the type of public input absent prior to the release of the Enforcement Guidance. At the hearing, SHRM represented stakeholders. Additionally, a law firm that represents many companies in the background screening industry, Seyfarth & Shaw, submitted recommendations to the Commission regarding their enforcement plans.

One misconception the EEOC is determined to clarify is that the Guidance in no way discourages companies from conducting pre-employment background checks. Nothing in the Guidance or federal law prohibits an employer from conducting a background check; the Guidance merely provides direction on how to conduct such checks in compliance with Title VII of the Civil Rights Act of 1964.

Besides the use of criminal records, two other aspects of the Guidance have fostered the most debate: criminal history inquiries on initial job applications, and remedying incongruent state and federal laws.



While the Guidance does not specifically “ban the box” (prohibit criminal history question on initial job applications) it certainly is a reasonable conclusion one can draw from reading the Guidance. Whether related to the EEOC or not, the “ban the box” movement is gaining momentum throughout the country with bills in several states making their way through the legislative process. As a result, many employers have already decided to remove this question from initial job applications.

The thorniest issue to come out of the Guidance is not a unique one. It is a battle that has been waged in this country (sometimes literally) between state and federal laws that contradict each other. At issue with the EEOC Guidance are state laws that create policies that disqualify employees based on criminal record histories. For example, many states have laws barring individuals with certain convictions from working as a Registered Nurse. An employer in that state must comply with this state law, but the EEOC asserts that state law does not preempt federal law, and doing so may violate Title VII. Thus, an employer is in a bind, as they must answer to two different masters. While it is unclear if the EEOC would actually pursue actions against employers mired in this situation, they have not made an exception for it.

While the new strategic enforcement is still in its early stages, it is reasonable to expect that we will see an increase in actions brought by the EEOC for violations outlined in the Guidance. Debates over the nuances and minutia and even the overall authority of the EEOC Guidance will likely continue until it is time for new Guidance, so employers should not wait to review their policies and procedures until all the dust settles. Corporate Screening encourages you to review your policies - including seeking legal advice - in regards to criminal histories on applicants.

VerifyStudents Corner: Student Background News and Information

VerifyStudents Feature Article

Background Screening Accreditation

As a leader in education, you are looking for efficient and cost-effective student background screening programs that help reduce your administrative workload. In addition to efficiency and cost, another consideration that is becoming increasingly important in the background screening arena is accreditation. Organizations want to make sure that their background checks are of high professional quality. One of the standards they are using to ensure quality is to use an accredited background check organization. While many background screening companies are members of the National Association of Professional Background Screeners (NAPBS), less than two percent are accredited by the organization. Rest assured, Corporate Screening is in this elite category as an accredited background screening company and has been since 2010, the first year of the program.

Why Work with an Accredited Background Screening Provider?

Educational entities know the importance of accreditation. It reflects the school's high professional quality, as well as indicating that it meets nationally endorsed standards. And an important standard students look for when selecting a school is that it is accredited.

The same standard of accreditation holds true for student background screening providers. In order to be accredited, background screening companies need to pass a rigorous auditing process of policies and

procedures. Companies who do this show a commitment to excellence, accountability and high professional standards. Corporate Screening is confident that accreditation is one of the ways our organization meets the same high quality standards that your school does.

VerifyStudents by Corporate Screening

As a NAPBS accredited organization, Corporate Screening works with a number of the nation's leading healthcare systems, and our student background screening product, VerifyStudents was developed to help schools manage their clinical requirements more efficiently. We provide immunization tracking, paperless drug testing, fingerprinting, and criminal background checks that are customized based on your specific clinical requirements. Our newly redesigned website is student-friendly, allows students to share their background directly with the clinical site, and helps reduce your administrative workload.

Working with an accredited organization such as Corporate Screening provides you and your clinical sites with the peace of mind of knowing that your student background screening needs are done by accredited professionals, ensuring compliance with your clinical contracts. For more information about student background screening services, including immunization tracking, paperless drug testing, fingerprinting and criminal background checks, call us toll-free at 888-464-0621 or email us at Sales@CorporateScreening.com.



VerifyStudents Product New! Florida Fingerprinting

Recently, Corporate Screening began offering fingerprint-based criminal record searches in the state of Florida. With state-of-the-art equipment and convenient locations throughout Florida, this is a best-in-class FDLE approved system.

Significant features of fingerprint solutions through VerifyStudents by Corporate Screening will please both students and college program administrators. Students will appreciate the multiple "in-network" locations that make finding a nearby site easy, as well as online scheduling that eliminates waiting when students arrive at the site. Administrators and students alike will welcome the preferred pricing that provides students with cost savings. And our fingerprinting is certified by the state of Florida and approved by the FDLE to provide Level 2 screening compliance, which will please program administrators!

For more information about student fingerprinting, contact us at 888-464-0621 or email us at Sales@CorporateScreening.com.

VerifyStudents Products

Our Line of Products and Services

You may use VerifyStudents for your student background screening program, but are you aware of all of the products and services offered through VerifyStudents? In addition to student-funded background checks, we offer self-scheduled drug testing, immunization tracking and fingerprint-based

student background screening.

Our products and services can save money and reduce administrative time on paperwork and tracking. If you are not already using these value-added services and products offered through VerifyStudents, we invite you to visit our

website, www.VerifyStudents.com to learn more about them and how they can benefit your student background screening program.

If you have questions, call us toll-free at 888-464-0621 to speak with a sales representative or email us at Sales@CorporateScreening.com.

Industry News

Background Screening in the News

Background Screening in the News is a section devoted to newsworthy events related to background screening. We'll briefly summarize a few of the newsworthy topics in the industry so that you know what's trending in the background screening industry.

Expanded Background Screening on Gun Sales

This has been highly discussed topic since the Newtown, Connecticut mass shooting occurred. Several states have proposed and/or passed legislation requiring background checks when buying firearms. The exact legislation varies by state, and support for the legislation is also variable. Most recently, the Senate defeated a measure requiring universal background checks for gun buyers, which has resulted in much commentary from individuals on both sides of the issue.

CS News

The Results Are In! 2012 Client Satisfaction Survey

The Corporate Screening Client Satisfaction Survey is an annual survey that we use to measure client satisfaction and to gather information about areas where we can improve our service to our valued customers. Participation was voluntary, and questions posed in the survey asked about our service, administrative processes (such as ordering, and information about the reports you receive), our customer service, and how well we communicate with you.

Many of you responded to our survey and for this we thank you. We've listened to your feedback and taken notice of both the good and the not-so-good. Fortunately for us, there was a lot more good feedback than the other! So as promised, here is a summary of the results:

This highly charged subject is sure to continue to be a focal point for the background screening industry for the foreseeable future.

Online Data Brokers May Be Subject to the FCRA

The Federal Trade Commission (FTC) warned six companies that share information about consumers' rental histories with landlords that they may be subject to the FCRA. The letters from the FTC inform the six operators that they would be considered credit reporting agencies (and thus subject to certain legal requirements), if they collect information on tenants and their rental history and provide that information to landlords to use in deciding whether to rent to those tenants. At this time, the FTC has not determined whether the companies violated the FCRA. The letters encourage the organization to review their business



practices in order to ensure compliance.

Kmart Settles Employment Class Action Lawsuit for \$3 Million

In late January, 2013, Kmart settled a class action lawsuit for \$3 million. The lawsuit alleged that Kmart violated the Fair Credit Reporting Act (FCRA) when using background checks to make employment decisions. This is a good time to remind all employers that when taking adverse action, they should be following procedures outlined in the FCRA. For a review of these procedures, read our feature article, *Adverse Action – Ensure Compliance by Taking Proper Steps*.

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:

- ◇ A-Brite Plating
- ◇ Event Source
- ◇ MEDSEARCH Staffing Solutions
- ◇ Century Credit Union
- ◇ Cross Country Staffing
- ◇ Werner Ladder
- ◇ Wilson Memorial Hospital

- 95.1% of survey respondents rated their overall satisfaction with Corporate Screening's background screening services as Satisfactory to Excellent. In fact, 96.6% of those who took the survey said that they would recommend CS to others.
- As for ordering background check reports, 95.2% find it to be an easy process and 97% ranked the quality as Satisfactory to Excellent.
- Our staff received excellent rankings as well, with over 95% finding our representatives to be responsive to your needs, positive and professional.

From your comments, we also understand that while we do a lot right, there are also a few areas that can be improved. We have shared your feedback about this with our managers. One area where we can improve is our communications with you. Corporate Screening strives to make sure that the process of

communication between our representatives and our clients is effective. In this day and age, we have many alternative ways to communicate our messages, and we want to ensure you get what you need in a timely manner. We will also continue to work on ways to make sure our clients receive the other critical communications and alerts about background screening they need from us.



16530 Commerce Court | Cleveland, OH 44130-6305 | P: 800-229-8606 | F: 440-243-4204

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