



Feature Article

Legal Landscape: Increasing Enforcement



In our 2013 issue of Screening Solutions, Corporate Screening's President, Greg Dubecky, wrote an article that discussed changes and trends in background screening. One development he noted was a trend of increased scrutiny on the background screening process from the government and plaintiff's attorneys. As we approach the middle of 2014, we have seen even more legal action taken by government agencies and a rise in the number of class-action lawsuits against both employers and background firms that fail to comply with the Fair Credit Reporting Act (FCRA). Here's a closer look at the legal landscape right now.

Stepped Up Government Enforcement
It has been two years since the U.S. Equal Employment Opportunity Commission (EEOC) released its updated **Enforcement Guidance on employers'** use of arrest and conviction records in hiring and retention decisions. In 2013 Corporate Screening shared information about the cases filed by the EEOC against employers BMW and Dollar General, alleging that their background check practices discriminated against African Americans, who have higher arrest and conviction rates than whites.

In the time since those cases were filed, the EEOC has seen some setbacks in its enforcement of the use of criminal background checks in hiring. In an appeal of [EEOC v. Peoplemark, Inc.](#), the Sixth Circuit affirmed a judgment against the EEOC, affirming that the EEOC was not able to support its claim that the Peoplemark had a blanket policy of denying jobs to African American applicants with felony records. And just this April, the same appeals court issued a unanimous summary judgment in favor of [Kaplan Higher Education Corporation](#), ruling against the EEOC.

FCRA Non-Compliance Litigation
In addition lawsuits filed by the EEOC, there are a growing number of class-action lawsuits against both employers and background firms that fail to comply with the FCRA. These class-actions can come at enormous costs to employers. The following examples of class action settlements for alleged FCRA violations illustrate just how expensive these lawsuits can be.

- ◇ [Domino's Pizza](#) settled a class action lawsuit in March 2013 for \$2.5 million. Plaintiffs alleged that

- ◇ that the background consent form violated the FCRA, and the company took adverse action without providing the required notice prior to taking action
- ◇ In April 2013, [U.S. Express](#) settled a class action lawsuit for \$2.75 million, after the plaintiff alleged that the company violated the FCRA because it did not get permission from him (verbal or written) before obtaining a consumer report, and made its hiring decision based on inaccurate information contained in the report.
- ◇ In April, 2014 [Swift Transportation](#) agreed to pay \$4.4 million to settle a class action lawsuit originally filed in July 2013, after a truck driver filed a complaint that the company did not follow proper adverse action procedures, violating the FCRA.

And earlier this year, a class action lawsuit was filed against [Whole Foods](#), alleging the company violated the FCRA because their background check disclosure form did not comply with the FCRA statute that requires the document **"consists solely of the disclosure."** The lawsuit seeks damages in the amount of \$1,000 for each individual for whom the company obtained a consumer report between January 28, 2009 to the

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Feature Article

Legal Landscape CONTINUED FROM PAGE 1

present, which could consist of thousands of individuals.

In light of all of the litigation taking place, there are things employers should do to **protect themselves. They should be familiar with the EEOC's criminal background guidance** – it indicates how the EEOC interprets the use of criminal records in background checks. Also, review your hiring policies regularly to make sure that your procedures comply with EEOC guidance, as well as federal, state and local laws. Check your forms to ensure that they are up-to-date, and you are following FCRA procedures. And as always, if you have any compliance questions or issues, **Corporate Screening's team is ready to assist you.**

Industry News

“Ban the Box” Trend

If you have been checking out our blogs (www.corporatescreening.com/blogs) you may have noticed quite a few “ban the box” updates. It's important that employers stay abreast of this movement because it continues to gain ground. If you do business in these states or localities, you may be impacted.

For those who may be unfamiliar with the term “ban the box,” it is the popular term for the legislation that prohibits questions about past criminal conduct on job applications. It refers to the “yes” or “no” boxes that typically appear by the question asking about an applicant's criminal past. Supporters maintain that by eliminating the question on the application, former offenders will not be immediately disqualified for work if they answer “yes.” It also offers them the opportunity to compete with other applicants based on their qualifications. And much of the legislation is in line with EEOC guidelines, which suggest employers wait until later in the hiring process to address criminal background issues.

Employers should note that eliminating the criminal history question from the application does not mean that they cannot ask about criminal conduct or do background checks. This is permitted further along in the hiring process. And furthermore, there are occupations and positions that the laws do not apply to, such as ones where a federal or state law requires a background check.

As we have noted, it is becoming increasingly apparent that “ban the box” momentum is building and support for such legislation is gaining ground. The National Employment Law Project (NELP) reports that in 2014, two new states (Delaware and Nebraska) passed “ban the box” legislation, which means

now 12 states have adopted this policy. Additionally, 62 local jurisdictions across the country have joined the movement, and in late 2013, Target Corporation became the first national employer to “ban the box” on its applications in all states.

Another significant change in the trend is who “ban the box” laws apply to. Much of the early legislation applied to state or local government employment. Now there's an increasing trend of passing legislation that applies to both public and private employers.

Corporate Screening recommends that employers continue to monitor this trend. It is likely more states and municipalities will adopt “ban the box” legislation. Even if these laws do not currently exist in the state(s) or municipalities where you do business, the situation may change. It's also a good idea to regularly review your job application forms and hiring processes to ensure that your organization is in compliance with any laws of this type.



CS News

Are You Reading Client Alerts?

When Corporate Screening has important news to share, we use a variety of tools. From emailing the most important messages, to posting information on our website, you can access them in a variety of ways. Client alerts are posted on our home page, www.CorporateScreening.com, or can be accessed through CS EASE under *Client Alerts and News*, and all are archived on the *CS Resources* page.

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 world.

FBI Assists Washington State with Background Checks for Marijuana Licenses

The legal marijuana business can be tough. In March, Washington State officials were informed that the FBI would not run background checks on people entering the marijuana business in that state. It does run them on marijuana business applicants in Colorado.

Officials feared that without the FBI's assistance, there would be a higher risk of criminal involvement in Washington State's legalized marijuana industry. And the rules set by the Washington State Liquor Control Board, which regulates the industry, calls for those being licensed to undergo a national criminal background check and requires fingerprints.

Reversing its decision, in April the FBI agreed to help Washington State do these background checks. Anyone with a felony conviction in the last ten years is disqualified from applying for a marijuana license. The state is proceeding with issuing licenses.

National School Background Checks Bill Proposed in US Senate

In April, Senators Joe Manchin and Pat Toomey teamed up to introduce legislation that would require any school receiving federal funds to perform background checks on all existing and new employees. Contractors would also be subject to the screening. In a setback for the bill, Senators Tom Harkin and Lamar Alexander objected to the request for unanimous consent, saying the bill should first go through the Health, Education Labor and Pensions (HELP) Committee because it would affect schools across the country.

Previously, the House had passed similar legislation.

Background Screening News

ATS Integrations Improve Hiring Efficiency

Background screening is an evolving business. Not too long ago, much of it was paper based, manual and labor intensive. As it has progressed, much of the work has transitioned and has become an online process, able to be done quickly and efficiently through automation and integration technologies. This has resulted in faster turnaround times for background reports, which has in turn helped to speed up the hiring process for employers.

Corporate Screening offers pre-integrated and custom ATS integration solutions that streamline and simplify the background screening process for employers. These seamless integrations allow employers to order and receive background reports directly through their system of choice with a single login, and effortlessly collect the information necessary for the background, interfacing with candidates as necessary.



Some of the many features and benefits of Corporate Screening's background integrations include:

- ◇ Customizable integration options
- ◇ Simplifies the background screening process
- ◇ Reduces background turnaround time and increases productivity
- ◇ Keeps employers in compliance with federal, state and local laws and regulations

We invite you to learn more about our ATS integrations and how they can make your hiring process more efficient by contacting your account representative directly, emailing us at Sales@CorporateScreening.com or calling toll-free 800-229-8606.

CS News

CS Partners with Sutter Health to Implement Oracle Taleo Background Solution

Corporate Screening recently announced that our client partner, Sutter Health, is using the Corporate Screening Oracle Taleo Onboarding and Transitions Cloud Services background screening integration. The integration is unique to the background screening industry and is tailored to meet Sutter's needs, by eliminating unnecessary steps in Sutter Health's talent management workflow, saving the health organization time and speeding up its hiring.

Jared Weed, Recruitment Leader at Sutter, remarked, "Sutter Health's Recruitment and HRIS teams have been delighted with the integration of Corporate Screening's background solution with Oracle Taleo Enterprise Cloud Service. The technology has allowed us to create a fully automated and paperless background process that seamlessly integrates with our on-boarding procedures, and streamlines the process for the Recruitment staff and candidates."

You can read the press release in its entirety by clicking [here](#) or visiting www.CorporateScreening.com, selecting "Resources" and then clicking on "CS News - Archives."

CS News 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:

- ◇ ICI Services
- ◇ Evergreen Business Services
- ◇ Interval Brotherhood Home
- ◇ Gurnick Academy Medical Assistant Program (Fresno, CA)
- ◇ San Francisco State (Health Education program)
- ◇ HELP Foundation, Inc.
- ◇ Javitch, Block & Rathbone Law Firm
- ◇ Bay Point Management Corporation
- ◇ El Camino College (Los Angeles, CA)
- ◇ The Cleveland Museum of Natural History
- ◇ Lincoln Tech, West Palm Beach Campus



Background Screening News NY OCA Criminal History Change

As Corporate Screening noted in a recent client alert, beginning April 1, 2014 the New York Office of Court Administration (OCA) would no longer provide a criminal history for any individual whose only conviction was a single misdemeanor charge more than ten years prior to the date of the search request.

Employers who conduct employment background checks in New York should be aware of this change, as there are counties with criminal records that can only be accessed through the OCA.

Therefore, if the candidate had a misdemeanor conviction more than 10 years ago, the information will no longer be reported in a search.

VerifyStudents Corner: Student Background News and Information

VerifyStudents Client Profile

Adventist University Adopts VerifyStudents Student Backgrounds School-Wide

Adventist University of Health Sciences is located in Orlando, Florida, and also has a campus in Denver, Colorado. With a student body of 2,400 enrolled at the two campuses, the university specializes in allied health and nursing education. It offers bachelors, associate and masters degrees in fields such as nursing, radiologic sciences, nuclear medicine, occupational therapy assistant and more. Working closely with Florida Hospital in Orlando and Porter Hospital in Denver, Adventist University prides itself on giving students clinical experiences only available through major medical centers.

Senior Vice President for Student Services, Stephen Roche, Ph.D. describes the university as a “mission driven institution,” affiliated with the Seventh-day Adventist Church. Spirituality and embracing Christian thought is an important element of the education process, along with the classroom and clinical aspects. As stated in its mission statement, the school “seeks to develop leaders who will practice healthcare as a ministry” and conduct their professional lives as healthcare ministers.

Since 2012, Adventist University has used VerifyStudents by Corporate Screening to validate and ensure compliance with their student background screening needs, which are varied. First, as part of the enrollment process, all accepted students must complete a basic background package, which consists of a criminal background check, drug test and proof of immunization. Later in their academic career, when they declare for their specialized Allied Health program, new background requirements may be involved.

“Prior to using VerifyStudents, each program handled their own background checks. While the system worked, it was decentralized and inefficient, with background reports housed in various locations, and immunizations tracked

manually,” remarked Dr. Roche. “We needed to find a better solution.”

The nursing department came to the rescue. Having first discovered VerifyStudents at a conference, and then learning more about it, they were impressed with the products and services. They brought the information to Dr. Roche. “As I learned more about VerifyStudents, I thought, this is something I would like for the whole school. I was impressed with the Matt Jaye and the sales team. They told us what they could do for us, and didn’t make promises just to make a sale – they came through with what they said they could do.

“Now we have adopted a system whereby when incoming students enter and take their general education courses, they must meet the basic background requirements. Later, as they declare for their specialized program, new back-

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VS Product Information

What Makes ImmuniTrax™ Different?

Allied Health Program administrators know that tracking student immunizations is a time-consuming project. VerifyStudents by Corporate Screening offers schools a solution that saves both time and money. There are other student tracking solutions out there, so what makes ImmuniTrax™ different from the competition? Here are just a few of the reasons ImmuniTrax™ stands out from the other offerings.

Ease of use and efficiency. It’s safe to say that when you make a system easy to use, it reduces the number of errors people make. One example of simplifying the process is when students attach their immunization forms. Other tracking systems force them to attach their health forms to the correct requirement, which often results in student errors and creates an inefficient process. Corporate Screening’s partner, **Medicat**, attaches each of the students’ forms to the correct requirement, which means fewer student errors and an easier user process.

Advanced communication features. With a wide array of communications tools, ImmuniTrax™ offers administrators more control. Messages are safe and secure using the HIPAA-compliant messaging center. Administrators can send messages, as well as view student correspondence history. The time-stamped messages enable program managers to see at a glance when (or even if) a message was opened and track progress.

Experience and expertise. Corporate Screening’s partner, **Medicat**, is a leading provider of healthcare information technology. Its professional team of clinicians and former college health professionals have years of experience, providing expert review of forms, ensuring validity and that they meet clinical site requirements.

If you have questions or want more information about our ImmuniTrax™ student immunization tracking solution, call 8-00-229-8606 or email us at Sales@CorporateScreening.com.

VerifyStudents Corner: Student Background News and Information

VerifyStudents Client Profile Adventist University CONTINUED FROM PAGE 4

ground and immunization requirements are needed, and at that time, students are automatically informed about what needs to be done.”

Dr. Roche added, “While all of this is good for students, they aren’t the only ones who benefit. Our staff appreciates how much more efficient the process is since we started using VerifyStudents. Student records are electronically sent to the point person in each department, and from there they can get students any information that they need. VerifyStudents has offered us much more control over the records and the process, thanks to the customization done by Matt and the folks at Corporate Screening.”

Melissa Santiago, Executive Assistant at Adventist University, handles much of the administrative work associated with the student background checks and drug screening. She works closely with **both the school’s students and the staff at Corporate Screening.** “I want to commend Corporate Screening on their timing and response,” she said. “The turnaround time is incredible. We never wait long, and there’s never any doubt that Corporate Screening is doing the work. The timing shows us that our account management team is on it.”

Dr. Roche added, “As an institution, we are moving into another phase of understanding how beneficial VerifyStudents really is. Sometimes we forget this is really a service to our students – it’s their information and their VerifyStudents accounts belong to them. Even when they leave the program, they have this information available to them for later employment or academic purposes.”



VerifyStudents Information

You’re Invited to Visit the VerifyStudents Blog!

Have you taken visited the VerifyStudents blog? We invite all student background screening program managers to take a look at the wide variety of articles we regularly publish on the subject. Need tips on finding the right background provider for your students? We offer suggestions about things to look for and ask potential vendors. Wondering why you should use an accredited background screening company? We have information on that.

With so many topics of interest, take the time to explore our past postings and stay tuned for new articles. Visit www.VerifyStudents.com and scroll to the bottom of the page to read excerpts from the latest blogs. Or to access the archives, click on the “blogs” link on the left navigation panel. Happy reading!



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