



Top Ten Do's and Don'ts When Performing Background Checks

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Top Ten Do's and Don'ts When Performing Background Checks

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DO get a written authorization in writing before conducting a background check.

DON'T do a background check on someone before letting them know that one will be conducted.

DO use a reputable background check company if you are not conducting the check on your own.

DON'T consider any information that is deemed to be stale or prohibited by law.

DO give an applicant the chance to explain any negative information on a background check.

DON'T take adverse action against a candidate without giving opportunity to address negative information on a background check.

DO limit information disclosure revealed in a background check to only those who have a need to know.

DON'T automatically deny a candidate a position due to a criminal history. Abide by guidelines on consideration of criminal histories by EEOC or any other state law guidelines.

DO modify employment applications and train interviewees on compliance with "Ban the Box" laws.

DON'T think that not following the requirements of the Fair Credit Reporting Act will not get you in serious legal trouble.

About the Author:

Mr. Smith is Vice Chair of Capehart Scatchard's Labor & Employment Group and a Shareholder in the Firm's Health Care & Dental Law Group. Mr. Smith practices in employment litigation and preventative employment practices, including counseling employers on the creation of employment policies, non-compete and trade secret agreements, and training employers to avoid employment-related litigation. Represents both companies and individuals in related complex commercial litigation before federal states courts and administrative agencies in labor and employment cases including race, gender, age, national origin, disability and workplace harassment and discrimination matters, wage-and-hour disputes, restrictive covenants, grievances, arbitrations, drug testing, and employment related contract issues.



Mr. Smith also counsels health care clients in reviewing employment contracts, negotiating restrictive covenants and handling actions related to the enforcement of noncompete provisions against physicians and other health care professionals.

