

Risk Management and Background Checks — When it comes to your business, you cannot afford to take chances

William F. Hauswirth
President
IntelliCorp Records, Inc. (an ISO Company)

A single negligent-hiring lawsuit can cost a business or organization millions of dollars. But even if a bad hire doesn't result in a lawsuit, bad publicity can destroy a company. Businesses and organizations must be proactive to avoid such litigation.

Employers across all industries need to obtain a thorough understanding of a prospective employee's history, particularly if that person will have access to company systems and applications or financial and personal information. In fact, a company can be held liable for negligent hiring and retention if the organization fails to conduct a comprehensive background check on employees. While not all states or industries require background checks, the potential for lawsuits and corporate liability for negligent acts reinforces the importance of due diligence in hiring practices.

Criminal background checks can reveal whether a prospective employee has engaged in a violent crime or has been convicted of theft. Businesses can also use the background-check report to determine whether an applicant has been honest on the job application. Supplying false information on an employment application is often a red flag for many employers, potentially indicating a hiring risk, and can be a separate reason to terminate an individual.

Knowing as much as possible about your employees, before they know your organization and customers, is also crucial. The individuals you hire must interact successfully with both coworkers and clients. And many positions are often unsupervised, leaving the door open for potential liabilities. A thorough background check can identify applicants with criminal records — information that can help you decide whether those people should be allowed to work for your organization. The key to minimizing your exposure to such liabilities is to know your applicant's history prior to extending an offer of employment.

A background check is one of the best risk-management defenses against lost revenue and workplace violence, especially when it comes to hiring reliable and trustworthy workers. And while a low-level employee might manage to steal only money or inventory, a single dishonest executive with access to critical information could send a company into financial ruin, costing jobs and millions of dollars. Investigating a job applicant's background not only helps protect company assets, but it also keeps the workplace and customers safe.

According to the Society of Human Resource Management (SHRM), 53 percent of all job applications contain false information. Used effectively, a sustained background-check program can assist businesses and organizations to limit turnover, deter theft, reduce liability, and even prevent litigation regarding hiring practices. Many industries recognize the importance of background checks. For example, numerous insurers incorporate background checks into their hiring and underwriting processes.

Although preemployment screening and background checks are important, periodic screening is also vital to maintaining a dependable workforce free of unlawful behavior. For example, an employee or volunteer may pass initial criminal background checks but

later commit a criminal offense that would justify termination. Since such actions could be imputed to companies and organizations, it is imperative that organizations periodically screen employees to identify individuals who have committed crimes.

In addition, to reduce the likelihood of an employment discrimination action, organizations should create a preemployment screening policy rather than conduct background checks on a case-by-case basis.

The Checks and Balances of Background Checks

It's important to investigate a candidate or employee thoroughly and evaluate the information you receive from a background-check provider. Make sure the information you use to select or deny an individual candidate is based on facts and their relevancy to the position. In addition, a thorough background check should include a combination of national database and single-county searches.

When conducting background checks, companies must adhere to the Fair Credit Reporting Act (FCRA). The employer must obtain written authorization from the applicant that allows the company to perform a background check, obtain past education or employment references, obtain credit-history reports, and so on. Additionally, if a background-check report produces negative or adverse information, the applicant, under FCRA guidelines, has a right to dispute the report.

Tips to Lessen Liability Concerns before Hiring

Employers have a duty not to hire people whose criminal history indicates that they are unsuitable for the job. Investigate a candidate or employee thoroughly, and evaluate the information you receive from a background-check provider.

Top Tips to Reduce Liability

- Develop internal policies and mandate a companywide commitment to mitigate risk and promote a safe work environment.
- Develop a preemployment screening policy using background-check products and services to ensure safe hiring practices.
- Follow all FCRA rules and regulations.
- Perform due diligence in selecting the right screening supplier for your organization.
- Use multiple screening products and develop position-specific standardized searches.
- Establish criteria to evaluate information. For example, what will constitute disqualifying information?
- Incorporate applicant background information and release forms in an application or prehire package.
- Eliminate subjective opinions to ensure consistency when interpreting results.
- Conduct a periodic program review to ensure that all applicable policies are being adhered to.
- Conduct periodic screening of employees to maintain a dependable workforce free of unlawful behavior.

Background screening reduces employee theft, drug abuse, and workplace violence. It increases productivity and employee tenure and protects your business from negligent hiring.

An employer's obligation to maintain a safe working environment arises from legal principles, and according to the U.S. Department of Commerce, 30 percent of all business

failures result from poor hiring practices. By implementing a consistent screening policy throughout an organization, employers avoid costly hiring and recruiting mistakes, mitigate exposure to risk and litigation, and reassure employees that the individuals working with them have been properly investigated.