

# HR Tips from Express



## Background and Reference Checks

Background and reference checks are an important part of the hiring process. They help ensure good hiring decisions, and help protect you from negligent hiring lawsuits. However, you do need to be sure to follow state and federal regulations regarding these checks. You must make sure the checks do not violate the applicant's rights and that you don't set yourself up for discrimination charges. Express Personnel Services created these tips on background and reference checks for you. Express can also take care of all your hiring needs, including completing background and reference checks to help you. Contact your local Express representative for more information.

## Value of Reference and Background Checks

Checking references and conducting background checks on potential employees can help verify the information provided during the interview process. This gives you an opportunity to detect falsified information. This is also a valuable way to confirm whether an applicant has the qualifications and experience needed for the job and to find out first-hand about the applicants' interpersonal skills, work ethic and attitude, punctuality, reliability or conviction records that are job-related and could potentially expose employers to negligent hiring claims. By spending time conducting thorough background and reference checks on the front end of the hiring process, you can do a better job matching applicants to open positions, which should help with retention and turnover in the long run.

## Mandatory Background Checks

As an employer, you should be aware that under certain circumstances background checks are mandated by state and/or federal law. Examples include: some state licensure agencies who require education checks to verify the applicant's degrees and courses taken or positions that involve safety, trust or children. You may be required to review driving records if the applicant will be operating motor vehicles. It is important that you check your state requirements to avoid claims of negligent hiring.

## Conviction Records

Statistics show that minorities tend to have higher arrest and conviction rates. If not used properly, however, criminal records checks can result in the elimination of a disproportionate number of minorities for consideration. As a result, federal and state equal opportunity rules generally require employers to have clear job-related reasons for conducting criminal background checks. These guidelines advise employers to establish the job-relatedness of an applicant's conviction by evaluating the nature of the offense, the length of time since the conviction or completion of the sentence and the nature of the job.

Many states place additional limitations on employers' access to and use of criminal records. Restrictions vary from jurisdiction to jurisdiction, but provisions include: types of records (many states prohibit employers from asking about arrest records, juvenile records, and expunged or sealed convictions); dates of records (some states prohibit employers from considering conviction records that date back a certain number of years); and notice and access (a few states require employers to notify applicants before conducting a criminal record check). Make sure you understand your state and jurisdiction requirements.



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### Legal Issues Relating to Reference Checking

To avoid allegations of discriminatory treatment, you should use the same safeguards when conducting references as you do when interviewing applicants. You should only ask the individuals being used as references questions that are directly related to the position. If you ask inappropriate questions of an applicant's former employer (such as whether the applicant had a disability requiring extended leaves of absence) you could be charged with discrimination.

Also, it is important that you are consistent with your reference checking practices. If you only check the references for applicants who are minorities or women, for example, you could be charged with discrimination on the basis of race or sex.