Employment Law and the Hiring Process

Your Name (First M. Last)

School or Institution Name (University at Place or Town, State)

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**Employee Background Check**

The hiring of new employees is considered to be a very complex method. It is significant to search the right applicant with the integrity and sufficient qualifications to do the job. For the effective practices of hiring, it is necessary to get the applicants background in order to get the better idea of their employee performance and abilities. It must be kept in mind that while conducting a background check, the privacy of any candidate should not be revealed. The purpose of this background check is to assist in evaluating skills and aptitude and requires to be carried out with a significant goal. The background investigation can a necessary hiring process part. It is considered to be a tool which helps in identifying the applicant's qualification. The hiring authority requires to take care of gathering the information in order to get what they need without violating the applicant's privacy.

The most significant reason, employers conduct a background check of employees is to flag the criminal history. This enables them to check whether the applicant is involved in any criminal activities or not. Even if the offences are small, it can enable the companies to reject the candidates with a criminal past. Companies conduct employee's criminal investigation on the national and state levels. Hiring those employees who are involved in any criminal activities can put the other employees at risk. So conducting employees background check can help in keeping customers and other employees safe. In addition to the history of criminal activities, these background check can also highlight the records of driving, histories of credit and much other information. There are many positions which involve the handling of money or driving, therefore these information or data is absolutely relevant. It can also help in verifying the employment that includes employment history of the applicant, employment dates, salary, and duties of the job. It can also help in verifying the education history of an applicant from the graduation of high school to college and attendance of university. Moreover, this background check can also help in performing a drug test, credit reports, and their legal right to work in the state. It also fulfils due diligence and helps in avoiding the liability because if an employer does not run a check of background for making sure that the candidate is fit for a driving job, he can be liable for the accident. Many employees have a habit of consuming drugs, due to which they put several stocks of drugs in the workplace which is totally illegal. Running the checks of background can assist to flag the employees who have been involved with the charges of the drug in history whether for possession or distribution. Background check of employees can give employers peace of mind and enable them to develop a relationship of trust with their employees which is necessary for running the business effectively. It can assist the employers to check whether he has selected the right candidate or not. It can also help the employers to highlight the wrong information of the employees which he provides during the interview or in the resume. This can be done by calling former employers of the candidates in order to make sure information on the applications or resume is true.

**Types of Background Check**

1. Criminal Background Check

The most significant type of background check is considered to be criminal background checks. It helps the employer to get the criminal activities history of the employees. The employer cannot get the information about any criminal record directly from the employees as it is against the law and also ethically wrong. They are not allowed to use this information in the hiring process. They are prevented from asking whether an employee has been convicted of a crime or not. This law implements on private employers in Illinois with the fifteen or more employees and similarly employers in Chicago and Cook County with fewer than fifteen employees. State and federal law do not allow the employers from asking the applicants of job-related to their criminal activities history which has been sealed, expunged or subject to pardon or executive clemency. If someone is applying for the jobs such as armed security guard, workers of health care, workers of local government, school workers, locksmiths, carnival workers, and private detectives then the employers have the right to review the conviction history of the employee. This criminal history of an employee can influence the employer that whether they need to hire him or not but it cannot be the only reason to reject the hiring unless such crime is linked to the job. If the employee is rejected due to the check of criminal history, the employer should inform him about that. Moreover, in order to evaluate these offences, the hiring manager should consider the date of the crime, seriousness of the crime, and rehabilitation (Denver, Siwach, & Bushway, 2017). Federal law needs employers for keeping information learned from private checks of background.

1. Loan Background Checks

Getting a loan in order to buy a home is considered to be an extensive method that involves a formidable papers stack which should be reviewed signed, and filled out. The reason behind that is a huge amount of money is considered to be exchanging hands and the company of loan requires for making sure that the candidate should return it back. There are several mortgage loans which employees can apply for, and it depends on their condition. Some type of mortgage loans is considered for a particular type of homes like jumbo loans, manufactured home loans, condo loans, and multifamily loans. There are some other loans which involve the assistance of government like FHA loans also known as Federal Housing Administration loans, loans of Agriculture department, loans of the Veterans Affairs department. No matter what kind of loan employee applies for, all the employers should conduct a background checking for determining whether they will be accepted for loans or not and also details about their interest rate. The extent and degree of the check will differ depending on the kind of loan. For example, the check of background conducted on the employee applying for the loan of VA should only involve be verifying their ability and service for making the payments whereas employees who are applying for a jumbo loan must have to face severer check and meet stricter requirements due to loan size. The checks of background on employees who are applying for the home loan will evaluate the credit history of the person and score of credit, verify the current employment status of the person and also verify the identity of the person (Denver, Siwach, & Bushway, 2017).

The companies who give loans will examine the credit history of applicants for seeing how consistently he can make payments on the current bills and previous loans by determining the debt amount they have acquired, and look their score of credit for deciding how financially accountable they are. The eligibility of an applicant for the interest amount and loan will depend on their history of credit. John Frels who is considered to be the residential loan officer and the sales manager said that "For FHA loans, we usually look for a minimum credit score of 620, which will generally result in an interest rate of around 3%. For a conventional loan, you don't want to have a credit score under 700, otherwise, you're going to get hit with a much higher interest rate” (Noe, et, al., 2017).

Loan companies will see the employment status of the applicant for verifying their income and making sure that they have a job. Such information is often collected with the credit history of an individual for determining their likelihood of being capable of making their payments of the loan.

The companies of the loan will require for verifying that the employee should fill the Patriot Act Disclosure legal requirements. All the financial institutions are needed for verifying and recording the individual's identity before giving them a loan. This is for preventing the terrorist from funding and money launderers.

**Employment Drug Testing procedure**

1. Pre-Employment Testing

The testing of pre-employment is conducted for preventing a hiring individual who utilizes drugs illegally. It typically takes place after the conditional employment offer has been made. The employee agrees to be tested as a situation of employment and not hired if they are failed for producing a negative test. Therefore, it is possible for the employees to get prepare for the test of pre-employment by stopping their utilization of drugs a few days before the test. Some employers also test their employees on an unannounced basis. ADA (Americans with Disabilities Act can prevent the utilization of testing of pre-employment for the use of alcohol (Noe, et, al., 2017).

1. Reasonable Suspicion

Reasonable suspicion is similar to the testing of for-cause or probable-cause and is conducted when the employer observes observable symptoms and signs which can lead them for suspected use of drug or workplace free of a drugs policy violation.

1. Post-Accident

Since personal injury or property damage can result from any accidents, so testing these accidents can assist in determining whether the alcohol or drug may be the factor. It is significant for establishing the objective criteria which will trigger a test of post-accident and whom and how they will be documented and determined.

1. Random

Random testing can be done on the unpredictable and unannounced basis on workers whose identifying information such as employee number, social security number has been placed in the pool of testing from which an arbitrary selection is made. Such selection is generated by the computer for ensuring that it is random and every person of the population of the workforce has an equal opportunity of being selected to test.

1. Periodic Testing

Periodic testing is considered to be the procedure of testing which is scheduled in advance and administered uniformly. Some employers utilize it on a yearly basis particularly if physicals are needed for this job. These tests are accepted more by an employee than the tests which are unannounced because employees can get ready for the testing by terminating the use of drug several days before the test.

**Bona Fide Occupational Qualifications (BFOQ)**

Bona Fide Occupational Qualifications (BFOQ) is considered to be the qualifications of the employment which employers are allowed for considering while making the decisions related to retention and hiring of employees. The qualification should link to the necessary duty of the job and is considered essential for a particular business operation. The rule of BFOQ permits for the hiring of employees based on national origin, age, sex, and, race if such characteristics are essential for the requirement of the job (Noe, et, al., 2017). It is considered to be an exception and the total defence to the Civil Rights Act of 1964 that saves employees from the discrimination which is based on the national origin, age, sex, colour, and religion at the workplace. For proving that the qualifications are essential, the employer should show that they are crucial to the activities success which has been carried out by that individual. One requirement for the BFOQ is considered to be ages of a mandatory requirement for airline pilots and drivers of bus due to the reason of safety. BFOQ can only be applied to the instances in which it is considered essential to the particular business normal operations.

**Affirmative Action Preferences**

Affirmative action preferences occur when an employer expend energy in order to make sure that there will be no discrimination in the process of employment and equal opportunities exists. All the employers who conduct the business of worth more than fifty thousand dollars with the federal government and who employ more than fifty people are needed for developing and deploying an affirmative action plan. It contains two elements that include action and self-scrutiny.

**Promotion**

Career advancement or promotion is considered to be a method by which a company employee is given a higher duties share, the higher scale of pay or both. This promotion is not only helpful for the employees but it also critical for the business owners and employer. It can help in boosting the motivation and morale of the employees and can also help in increasing their productivity. Promotions consider the weaknesses, several achievements, and accomplishment of the employees.

**Actions Taken to Resolve Employment Law Issues**

In order to resolve the employment law issues following actions can be taken:

1. Making Reporting Complaints Easier

The procedure of reporting complaints should be much easier and employees should have sufficient option for complaining in order to make sure that they can bring legitimate issues to the attention of management.

1. Create Specialists

Some laws of employment are very critical and complex. In order to overcome its complexity, utilize the team strength by spreading the load. For this purpose, employers should designate the HR member as the ADA specialist or FMLA specialist by ensuring that a person should get regular, specific, and additional training in that area (Cascio, 2015).

1. Terminate Slowly

The decision for terminating the employment of someone should be reviewed by multiple managers, involve someone with the training of Human Resources, and should be documented well.

References

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