



Employers Beware – Background Screening Compliance is Your Responsibility Too

By Christine Cunneen, CEO, Hire Image

Did you know ...

- Employers have compliance obligations during the background screening process at the national, state, and local levels? Not understanding those obligations can cost your company quite a bit of money in fines and lawsuits?
- In the age of electronic applications, most background screening vendors provide the electronic forms, but do not ensure they are in compliance for YOUR obligations?

The word compliance automatically conjures up thoughts of the Fair Credit Reporting Act (FCRA) (if it doesn't, it should). Both employers and the background screening firms they work with have obligations under the FCRA. Staying on top of law changes and federal cases involving the interpretation of the FCRA is important. However, it is equally as important to consider the effects of the various state laws at issue. What questions can you ask in light of Ban the Box and Salary History Bans? What records can you consider? What forms are required, other than those required under the FCRA? What are the differences with adverse action notices and steps?

Answers to these questions are vital to staying in compliance with the FCRA and your state, county, and city laws, under which background screenings are governed. As one can imagine, each state has its own rules, regulations, and nuances that are different from one another. To further complicate matters, these laws and the cases interpreting them are always evolving. Some of the main topics that vary by state include, but are not limited to:

- Background screening laws;
- Credit reports;
- Drug testing laws;
- Disclosure and authorization forms;
- Waiting periods for adverse action notices;
- State reporting limits on criminal records;
- Ban the Box; and
- Salary History Bans.

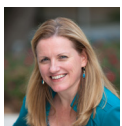
There can be even "smaller" nuances, such as California's requirement to add a cover page to reports before they are sent out. Additionally, states such as California, Minnesota, and Oklahoma allow candidates to request copies of their background checks on the authorization form. However, no matter how small or large you think these requirements may be, they all mandate adherence.

Is your provider helping you maintain compliance?

Do they educate you on what items are your responsibility?

Many background screening companies offer templates, but do not explain your obligations or update the forms when changes are needed. At Hire Image, we understand the interplay between state and federal law and how these laws affect the background screening process. To that end, we provide templates that are updated when needed. We also offer best practices tips and solutions, as well as resource guides to help companies with their compliance obligations: <https://www.hireimage.com/background-check-resources/>.

Understanding your compliance obligations is imperative. Discuss those responsibilities with your legal counsel and ask your provider what specifically they are doing to provide assistance.



ABOUT THE AUTHOR

Christine Cunneen, CEO of Hire Image LLC, is past Chair of NAPBS and is on the board of RI-SHRM. Hire Image is 100% US-based and accredited and one of the few companies requiring all operational staff to maintain FCRA certification.