

AT A GLANCE:

Background references provide employers with valuable information about job applicants.

Various federal laws, including the Fair Credit Reporting Act, regulate background screening.

Before using a Consumer Reporting Agency, employers must notify individuals and obtain their consent.

When giving references, employers must reveal only information that is documented and verifiable.

There are civil and criminal penalties for violating laws covering background references.

BACKGROUND REFERENCES: A MATTER OF ASKING THE RIGHT QUESTIONS AND GIVING THE RIGHT ANSWERS

The time when doing a background check on a prospective employee required little more than calling references listed on a resume is long past. It's simply too expensive and too risky to onboard individuals who have misrepresented their qualifications or their background. That's why proactive employers take the time and spend the money to hire an independent vendor to conduct thorough background investigations of many if not all of their job applicants. Background screening gives employers access to such information as a candidate's driving history, professional credentials, and academic records, all of which can assist in seeing that the right person for the job is hired.

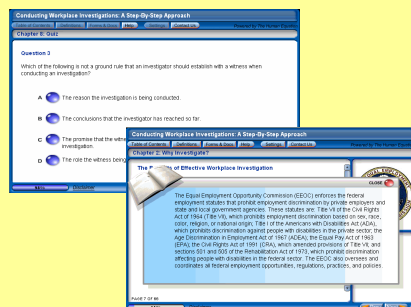
But gaining access to such personal information requires that employers tread carefully through a tangle of laws designed to protect individuals from discriminatory hiring practices, including the Fair Credit Reporting Act (FCRA), the Fair and Accurate Credit Transaction Act (FACTA), and Title VII of the Civil Rights Act. Generally, employers will use a Consumer Reporting Agency (CRA) to gather the detailed information about job candidates that is needed to make informed hiring decisions. But before a CRA can access the information, employers must provide the individual to be investigated with a document that summarizes his or her rights under FCRA and obtain the individual's consent. Once the background information is acquired, the employer must use it for employment purposes only, as authorized by the signed consent form.

Similar discretion must be practiced by businesses, government entities, or educational institutions when they are asked to provide information about individuals. For example, an employer, when asked to provide a reference, must limit discussion of an individual's work history to accurate, well-documented information so as to avoid charges of character defamation. A state's Department of Motor Vehicles may verify the accuracy of personal information but may not be permitted to pass on an individual's history of traffic accidents or violations. And, under the Family Educational Rights and Privacy Act (FERPA), an educational institution may be prohibited from releasing an individual's academic records without that individual's written consent.

As if the background reference process isn't already sufficiently fraught with legal pitfalls, there are a number of other compliance-related issues that employers need to be aware of, including:

- the procedures that organizations must follow if they take any adverse employment action based on information obtained from a background check;
- the higher degree of transparency required if an Investigative Consumer Report is sought;
- when and how physical examinations of job applicants may be performed; and
- the civil and criminal penalties for noncompliance with applicable laws.

These and other topics are explained in The Human Equation's course on Background Screening and the Fair Credit Reporting Act. While the process of giving and getting background references is not simple, the costs of making a bad hire or violating the law are strong incentives to learn and follow the rules.



COURSE FEATURES INCLUDE:

- Self-paced learning
- Clear, concise explanations of the laws on obtaining and giving background references
- Links to definitions, questions and answers, case law, and documents
- Appealing graphics

