What do employers need to know when using criminal records?

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Employer Preparation

Understand the FCRA
- Responsibilities of Users
- Contractual obligations

Understand applicable state laws
- Depth of research permitted
- Use of non-conviction records
- Permitted questions, e.g. “Ban the Box”

Obligation to apply EEOC guidelines and tests

The question of scope
- Number of years “deep” and “wide”
- Risk mitigation concept- limitations
Employer Preparation

The question of relevance
  • Job relatedness

Planning for the decision process
  • Who makes the decisions?
  • How are the decisions made?
  • Is there a roadmap?
  • Ensuring consistency/fair treatment

Planning for the dispute process
  • How does the candidate initiate?
  • Who evaluates?
  • Factual vs. decisional disputes
How CRAs Help

Consultative approach
Providing sample documents
State law guidance

• Redacting non-reportable cases
• Some also redact non-convictions

Recommending program legal review!
Public documents on www.napbs.com