

Background Checks

Background checks play an important role in the recruitment and hiring process. While they may be useful to substantiate claims made by applicants, employers must remember that federal and state law may limit the circumstances under which they may be conducted, as well as how the information supplied in them may be used.

Federal Law

Any time an employer uses an applicant's or an employee's background information to make an employment decision, it must comply with [federal nondiscrimination laws](#) that protect applicants and employees from workplace discrimination based on race, color, national origin, sex, religion, disability, age (40 or older), and genetic information.

In addition, when an employer runs a background check through a company in the business of compiling background information, it must comply with the [Fair Credit Reporting Act](#) (FCRA). There are certain procedural protections the FCRA requires, both before an employer gets background information and when an employer uses background information to take an adverse employment action (i.e., not hiring an applicant).

State Law

State laws may prohibit or limit the use of background checks as well as the information obtained from them, and may prohibit discrimination regarding the use of background check information based on additional characteristics. Be sure to check the applicable laws in your state and consult with an employment law attorney to ensure full compliance.

For additional information on what employers need to know before conducting background checks, please [click here](#).