



SUMMER HIRING

The EMPLOYER GUIDE to Background Checks

Are there any restrictions when performing background checks or drug tests on minors?

Yes. There are a number of factors to consider when conducting background checks or drug tests on minors seeking employment.

Depending on job requirements and company policies, employers may have justifiable security and safety concerns with seasonal, temporary or other labor needs met by minors. Running third-party background checks on minors falls under the [Fair Credit Reporting Act \(FCRA\)](#), just as they would for any other applicant or employee; therefore, careful understanding of the nature of a minor's consent is necessary for employers to be protected.

Before seeking consent in conjunction with pre-employment screenings, employers should understand that minors are generally not able to legally provide consent, as persons under the age of 18 (lower in some states) are unable to enter legally binding agreements, with few exceptions. Minors are not expected to have the maturity necessary to fully understand the terms and obligations of a legal agreement or contract, so although they may sign a release for pre-employment screenings, it will not likely be binding, leaving the employer unprotected. Parents have the legal authority over minors; therefore, they can give their consent to the screenings, which will be legally binding. Employers wishing to run these screens on minors and be protected should require parental or legal guardian consent. When the minor is not able to provide parental consent, employers should consult with their attorney for a recommended practice.

Even when parental consent is obtained, however, not all records an employer usually requests in these screenings will be available on minors. For example, the majority of criminal records for minors are sealed, making them unattainable.

An exception would be in limited situations where a minor was convicted as an adult. Additionally, minors generally are unable to obtain credit until age 18, making credit history unlikely to exist. Past employment and educational records, however, should be available, and personal references can also be obtained. Therefore, when using pre-employment screening information in hiring minors, employers may need to adjust their policies and practices in terms of what information they will have available to use. Employers may wish to seek legal counsel to draft a screening policy that best protects the employer when hiring minors.

Finally, as with adult applicants and employees, minors are afforded the same rights under federal nondiscrimination laws, including the EEOC [guidance](#) that all pre-employment and post-hire screenings should demonstrate job-relatedness and be part of a uniformly applied practice to those jobs demonstrating such requirements.

All of the content on this page, including content associated with Express Requests is for informational purposes only and not for the purpose of providing legal advice. You should always contact your attorney to determine if this information, and your interpretation of it, is appropriate to your particular situation.

For Further Assistance with Summer Hiring, Contact Us at

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