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## Background Checks:

### Top 10 Do's and Don'ts

Live Webinar May 13, 2020 • 1:00 PM - 2:30 PM ET

Find the most effective ways to perform a background check and what legal restrictions may apply.

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An ever-increasing number of employers are recognizing the benefits that can be derived from conducting background checks on both current and prospective employees. While background checks can be an effective tool for weeding out questionable employees, legal limitations on how such checks can be performed (and how the resulting data discovered can be used) must be understood or otherwise an employer will find itself defending against its own illegal actions. Review the kinds of background checks that can be conducted by employers, and likewise address the various legal restrictions (primarily under federal and state law) applicable to performing background checks, and related limitations placed on how acquired background information can be legally used for the benefit of the employer. Much of these latter discussions will be focused on the guidelines for conducting criminal background checks issued by the EEOC and also on the recent trend in many states of placing limits on when criminal background information can be obtained from candidates for employment through enacted Ban the Box laws. Finally, the increasing use of social media outlets to conduct background checks will also be examined, along with the potential legal risks and pitfalls of utilizing such media outlets to perform background checks.

### Learning Objectives

After attending this live webinar, you will be able to:

- define legal limitations on background checks.
- describe the downside of not performing background checks.
- review EEOC guidelines on conducting background checks.
- discuss the use of social media sites to conduct background checks.

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## Agenda

### Legal Limitations on Background Checks

- The Federal Fair Credit Reporting Act
- Common-Law Privacy Restrictions and Other State Statutory Limitations on the Use of Criminal Conviction and Arrest Records
- The Civil Rights Acts of 1964 and 1991 and Other Anti-Discrimination Laws
- EEOC Guidelines on Conducting Background Checks
- The Ever-Increasing Use of Ban the Box Laws

### The Downside of Not Performing Background Checks

- Claims of Negligent Hiring of Employees
- Claims of Negligent Retention of Employees
- Other Possible Common-Law Tort Actions

### Use of Social Media Sites to Conduct Background Checks

- Privacy Issues and Other Legal Restrictions on Use
- Risks of Use, and Best Practices and Policies to Minimize Risk

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## Faculty

### Ralph R. Smith 3rd, Esq.

- Shareholder and co-chair of the Labor and Employment Department of the law firm of Capehart & Scatchard, P.A.
- Concentrates practice in the areas of labor and employment law, and complex commercial litigation
- Represents companies in all kinds of labor and employment-related litigation in the federal and state courts of New Jersey and Pennsylvania
- Regularly counsels clients on issues of compliance with both federal and state employment laws, including those that impact the area of employee background checks and dealing with arrested employees
- Lectures widely and writes frequently in the field of labor and employment law
- Has lectured at many Lorman Education Services seminars
- Served as an adjunct professor at The Widener University Graduate School of Business, teaching labor and employment law
- Member of the New Jersey Federal Bar Association; the New Jersey State Bar Association; the Historical Society of the U.S. District Court for the District of New Jersey; and the Camden County Bar Association, Labor and Employment Committee
- Can be contacted at 856-914-2079 or [rsmith@capehart.com](mailto:rsmith@capehart.com)

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