

# Big Pepsi settlement shows background check peril

Pepsi Beverages will pay \$3.1 million to resolve EEOC charges that it discriminated against minorities when it refused to hire applicants with arrest records.

The EEOC alleged that Pepsi's practice of using previous arrests to rule out applicants—even those never convicted of a crime—constituted disparate impact discrimination against minorities. The EEOC claims the practice affected 300 black applicants. Pepsi has agreed to change its policies.

The EEOC has long held that criminal background checks should be limited to only those positions where such information is "job-related and of business necessity." In those cases, the EEOC believes only convictions should count against the applicant, not arrests.

A 2010 survey by the Society for Human Resource Management found that 73% of major employers always check applicants' criminal records. Only 19% do so because of security or safety concerns related to a specific job.