

When is the right time to do background checks?

Q. When should we be doing our background checks: Before an offer is made? After the offer is made and before employment? Or after employment has begun? We generally do the check after we make an offer and before employment starts. — Elizabeth, Illinois

A. Your organization is correct to time background checks on new hires *after* an offer of employment is made.

There are a lot of good reasons for this, but a big reason is the Fair Credit Reporting Act (FCRA), which requires you to notify an applicant of the reason you are withdrawing a job offer if you have used a vendor “credit reporting agency” to conduct the background check. (Some states have similar laws.) If you conducted a background check before extending an offer of hire, the process would be more expensive, and applicants not hired because they performed poorly in an interview might believe that something on their background check in fact motivated the decision, and that you were not being forthright in so stating.

In addition, states with drug testing laws typically require prehire drug tests to occur post-offer, and the ADA says that prehire medical examinations can take place only post-offer, after all other prerequisites to hire have been satisfied.

Many employers also obtain authorizations from new hires that will permit them to conduct background checks of current employees, if you anticipate you may need to update a background check (perhaps to comply with customer requirements, for example). The FCRA does permit employers to conduct background checks on current employees who are actively under investigation for suspected wrongdoing.