

Employee lied about criminal convictions on application? That's a firing offense

You may have heard that the EEOC is cracking down on employers that use criminal records in hiring. But that doesn't mean you can't ask in the hiring process.

If you have a policy that considers each conviction on its own merit and in relation to the position the applicant seeks, you may ask about criminal convictions and refuse to hire someone you believe poses a risk. For example if you're hiring a bank teller, you can reject someone who has a theft conviction.

You can also fire someone who lied on his application by not mentioning past convictions when asked. Just be sure the application spells out that a criminal record isn't an absolute bar to employment.

Recent case: Maurice got a job as a drug counselor after filling out an application that asked for any criminal convictions. The application stated that convictions don't automatically bar employment, but that any falsification was grounds for discharge.

Maurice didn't mention his multiple criminal convictions for cocaine possession. They were uncovered when the employer ran a background check. Because he hadn't come clean, he was fired.

He sued, alleging he had been fired because his employer perceived him as a drug addict and thus as disabled.

The court tossed out the case, reasoning that the employer had a valid conviction policy that didn't ban employment and that Maurice had been deceptive by omitting the convictions. (*Rocha v. Coastal Carolina*, No. 7:12-CV-2, ED NC, 2013)