

EMPLOYERS' BEST PRACTICES

Use of Arrest or Conviction Records in Employment Decisions

The following are examples of best practices for employers who are considering criminal record information when making employment decisions.

GENERAL

- Eliminate policies or practices that exclude people from employment based on any criminal record.
- Train managers, hiring officials, and decision makers about Title VII and its prohibition on employment discrimination.

DEVELOPING A POLICY

- Develop a narrowly tailored written policy and procedure for screening applicants and employees for criminal conduct.
- Identify essential job requirements and the actual circumstances under which the jobs are performed.
- Determine the specific offenses that may demonstrate unfitness for performing such jobs.
 - Identify the criminal offenses based on all available evidence.
- Determine the duration of exclusions for criminal conduct based on all available evidence.
 - Include an individualized assessment.
- Record the justification for the policy and procedures.
- Note and keep a record of consultations and research considered in crafting the policy and procedures.
- Train managers, hiring officials, and decision makers on how to implement the policy and procedures consistent with Title VII.

QUESTIONS ABOUT CRIMINAL RECORDS

- When asking questions about criminal records, limit inquiries to records for which exclusion would be job related for the position in question and consistent with business necessity.

CONFIDENTIALITY

- Keep information about applicants' and employees' criminal records confidential. Only use it for the purpose for which it was intended.