

ATLANTA REGIONAL WORKFORCE BOARD INSTRUCTION 15-04

DATE: May 11, 2015

SUBJECT: Time Frames for Training Consideration When Applicant Background Screening Reports Show Arrests and Convictions.

PURPOSE: The purpose of this instruction is to disseminate an update to ARWB Policy for Background Checks and Drug Screening – Guidance per TEGl 11-14. Approved by Atlanta Regional Workforce Board April 30, 2015.

For training approval ARWB Career Advisors will consider no **arrest records** which predate the (background screening) report by **seven** years and no **conviction** records which predate the (background screening) report by **ten** years.

BACKGROUND: USDOL Employment and Training Administration Training and Guidance Letter 11-14.

REFERENCE: 15 U.S.C. § 1681c(a)(5) ("No consumer reporting agency may make any consumer report containing . . . any other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years.").

POLICIES: New guidelines replace old guidelines.

ACTION REQUIRED:

- a. All one-stop program staff must be familiar with and implement the revised training consideration guidelines for adult and dislocated worker services for WIA applicants.
- b. All involved staff must read, initial and date this instruction, and the instruction should be placed in the instruction section of ARWB Policies and Procedures.

EFFECTIVE DATE: May 11, 2015



Rob LeBeau, Manager
Workforce Solutions

Attachment: ARWB Policy Background Checks and Drug Screening
c: All WFD staff, Career Resource Center Staff



ARWB POLICY – Background Checks and Drug Screening – Guidance per TEGL 11-14
ARWB approved April 30, 2015

A background check and drug screen may be required and will be provided prior to training enrollment for individuals enrolling in WIA training programs such as truck driving, healthcare and education.

Background:

Individual training plans must address other occupational or industry related criteria that may preclude an individual from securing employment. Examples may include: driving record for individuals interested in commercial truck driver training; felony conviction or patterns of arrest or conviction for positions with education, IT, and healthcare; clean criminal background check for positions with the aviation industry etc. The background check must be conducted and dated no earlier than one month prior to the date a customer begins training.

In addition, many employers are asking applicants to submit to a drug screening prior to employment.

Due to several circumstances experienced at the Career Resource Centers, local staff have asked that the Board institute a policy regarding background checks and drug screening. Examples from our Career Center Managers include:

1. Customer indicated on his application that he had a felony conviction. He reported that he had a MBA and had worked for many years in the financial industry and wanted the financial planner program. After he was questioned about the nature of the offense, he told me that he had served time for embezzlement. I informed him that because of his felony conviction, he would not be marketable in the financial industry and we could explore other training programs. He was not interested and refused any other services.
2. Customer provided false information on her application regarding her criminal background. She completed the classroom portion of her training program and when the school placed her on an externship, it was discovered that she had a felony conviction and the school informed her she could not complete her externship. The school had to terminate her from the program and we are attempting to locate her to assist her in finding a job outside of the medical field.
3. Customer completed the Medical Assistant program and relocated to Florida. The school allowed her to complete the externship in Florida. We received a phone call from the school this morning and were informed that she cannot be placed because her background check shows offenses that will prevent her from working in the medical industry
4. Welding student with prior drug abuse history attended first term successfully then stated relapse and entered rehab, current WIA status-hold. Drug screen might have revealed issue prior to enrollment.
5. CNA/PCT student with shoplifting misdemeanor, charge not previously revealed now negatively impacting potential job placement.
6. WIA applicant requested pick-up for Early Childhood enrollment but was terminated from program due to prior simple battery charge revealed from program required background check, is now requesting WIA funding for criminal justice program.

Information on requiring background checks and drug screening

Background checks

- The following information can be obtained:
 - Verification of social security # and past addresses
 - Criminal and civil record searches
 - Driving and vehicle records
 - Verification of education and past employment
 - Verification of professional licenses
 - Reference checks
 - Bankruptcy and workers' comp records
 - Military service records
- Information sought should be relevant to the purpose and must be kept confidential
- If requesting more than just general info (which is info concerning addresses of record), must do the following:
 - Have a written disclaimer that a background check will be done and get the individual to sign it
 - Must adequately disclose to the individual that the background check may include in-depth information about his or her character, personal characteristics, mode of living, criminal, driving and work history, etc. This must be in writing, be mailed or otherwise delivered to the individual no later than 3 days after the report was first requested and include a statement informing the individual of his or her right to request additional disclosures and to receive a written summary of legal rights
- Before taking any adverse action based on a background check, must provide the individual with:
 - Notice of the adverse action
 - A copy of the report
 - A written statement of the individual's rights under the law
 - Name, address and telephone # of the consumer reporting agency that provided the background check
 - A statement that the consumer reporting agency did not make the adverse decision and cannot provide the individual with the specific reasons supporting the action
 - Notice of the individual's right to obtain a free copy of the consumer report
 - Notice of the individual's right to dispute the accuracy or completeness of the information contained in the report
- Background check cannot include medical information unless the individual specifically consents to disclosure; cannot include individual arrest information that predates the report by more than 7 years.
- For training approval ARWB Career Advisors will consider no arrest records which predate the report by seven years, and no conviction records which predate the report by ten years.

Drug Testing

- Although not required in the public sector, it's best to have a signed consent form
- Should make sure that the lab that will be conducting the testing uses a chain of custody procedure
- Must use testing methods that assure privacy and non-contamination of specimens
- Must confirm positive results with a second test, either the gas chromatography/mass spectrometry (GC/MC) method or an equivalent method
- Results must be kept confidential