



## Individualized Assessments

### What to do when unexpected results are returned on the background check.

Employers should always consult with their legal counsel to evaluate their compliance responsibilities when establishing their hiring policy.

#### What is an individualized assessment?

An individualized assessment is the process in which an employer reviews criminal records on a candidate's background check that disqualifies them for the position they applied for. Circumstances around the reported offenses are evaluated and compared to the job requirements.

#### Why are individualized assessments necessary?

When unexpected results are returned, this process allows employers to escalate and adjudicate the candidate's records while remaining fair and unbiased. Individualized assessments help employers make informed hiring decisions. The EEOC strongly encourages employers to conduct individualized assessments.

#### What guidance does the EEOC provide?

Among other things, the EEOC advises employers to: (a) use targeted screens to ensure only criminal convictions that are job-related to the position and consistent with business necessity are considered, and (b) to conduct individualized assessments based on the "Green" factors before making a final employment decision based on any criminal history disqualifying the candidate for a position.

To evaluate the Green factors, employers should consider asking candidates or employees to submit additional information or context regarding their criminal history information. The EEOC guidance also strongly discourages employers from using general disqualification criteria such as any felony conviction disqualifies an individual from all jobs when evaluating criminal history information

#### What are the Green factors?

The three Green factors that consider job-relatedness and how the criminal conduct is related to the specific position include:

1. The nature and gravity of the offense or conduct
2. The time elapsed since the offense or conduct and/or completion of the sentence
3. The nature of the job held or sought.

## What other factors should the employer considered when conducting an individualized assessment?

It is essential that employers have a written policy that clearly defines guidelines on how to proceed with candidates with a criminal history. Hiring procedures should be reviewed by the employer's legal counsel to ensure legal compliance.

Individualized assessments may also consider:

- ✓ Detailed facts surrounding the reported offense
- ✓ Number of offenses
- ✓ Candidate's age
- ✓ Evidence of rehabilitation
- ✓ Work history

## Are individualized assessments mandatory?

Individualized assessments are required in certain states. **California, Colorado, Connecticut, D.C., Delaware, Illinois, Louisiana, Maryland, and New York** have various state legislation regarding conducting individualized assessments when considering criminal conviction information in making employment decisions. Other states or jurisdictions may also have certain requirements for individualized assessments.

## How do I get started?

Individualized assessments can be initiated in the candidate's profile in *New Aurora*. Follow the steps below:

1. Open the candidate's profile and select the Individualized Assessment action (top right)
2. Contact the candidate and complete the Candidate Assessment Form
3. Schedule the delivery of Pre-Adverse Action Letter and Candidate Assessment Form
4. Allow 7 Days for candidate to respond with evidence/details about their BGC report
4. If required, complete the Individualized Reassessment
5. Review candidate feedback to make informed hiring decision
6. Schedule the delivery of the Final Adverse Action Letter [if applicable]