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## Discriminatory Use of Criminal Background Checks

*Gray Reed's Employer Handbook*

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This spring Pepsi got "popped" for a \$3.1 million dollar settlement with the EEOC over its refusal to hire anyone with an arrest or conviction record. Following the settlement, the EEOC released updated guidelines for the use of criminal background checks. I can hear a collective "Seriously?" coming from each of you now. How much government intervention into my business must I endure?

The EEOC acts with good intentions. Because Blacks and Hispanics are statistically arrested and convicted of crimes at a much greater rate than whites, the EEOC found Pepsi's practice to have a discriminatory impact on all applicants in those protected classes. At the same time, I think the EEOC imposes unrealistic expectations on employers to personally consider the criminal history of each applicant.

Like it or not, the guidance is here. Take a look to be sure you don't get into any trouble.

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