



What Employers Should Know About Federal Laws Governing Consumer Reports

You have requested that we provide you with credit and/or public records information on prospective and/or current employees for employment purposes.

The federal Fair Credit Reporting Act (“FCRA”) governs credit reports requested for employment purposes, including in connection with hiring, promotion, retention, or reassignment. State laws may impose additional requirements, and you should consult with attorneys in the states in which you operate and in which your applicants/employees reside in order to determine whether any such additional requirements apply.

These guidelines apply to consumer reports, as defined in the FCRA. At this time, InstantCriminalChecks.com does not conduct investigative consumer reports, which include information about a consumer’s character, general reputation, personal characteristics, and mode of living obtained through personal interviews conducted by a credit reporting agency.

1. **Disclosure and Authorization.** Before you request a report from us, you must do the following:

- Make a *clear and conspicuous disclosure* to the applicant or employee, in a document containing only the disclosure (not in the employment application or in any other document), that you are requesting the report. A sample disclosure is attached (“Sample Employee Release”).
- Obtain *written authorization* for the request from the applicant/employee.

If you are planning to request additional reports during the applicant/employee’s term of employment (after the initial report), the disclosure and authorization should cover future reports.

2. **Summary of Consumer’s Rights.** When you request authorization from applicants/employees, you must also provide them a *summary of the consumer’s rights* under the FCRA (if you have not done so already). A summary is attached for your reference.

3. **Certification.** We require that you certify the following items before we provide any reports:

- the reports are being used for *employment purposes only* and for no other purpose,
- you have complied with the *disclosure and authorization* requirements listed above,
- information from the reports *will not be used in violation of any applicable federal or state equal employment opportunity law* or regulation, and
- if an *adverse action* (discussed below) is taken based in whole or in part on a report, you will comply with the rules listed below.





4. **Adverse Actions**. Federal law defines an adverse action as the denial of employment or any other decision for employment purposes adversely affecting any current or prospective employee. If an adverse action is based at least in part on information contained in a consumer report, including the reports that we provide to you, the following rules apply:

- Before you take any type of adverse action, you must provide the applicant/employee with
 - (1) a *copy of the report* and
 - (2) a *summary of consumer's rights* under the FCRA (even if previously provided).

A sample pre-adverse-disclosure notice be found at: (<http://www.instantcriminalchecks.com/forms/>). You should give the applicant/employee a reasonable amount of time to respond. If the applicant/employee does not respond, proceed with the decision. If he or she responds, you should consider the response carefully in reaching your decision.

- After the adverse action has been taken, you must *notify* the applicant/employee of the adverse action, either in writing, orally, or by electronic means. The notice must include the following:
 - (1) The name, address, and telephone number (including a toll-free telephone number, if it is a nationwide agency) of the agency that provided the report.
 - (2) A statement that the consumer reporting agency did not make the adverse decision and is not able to explain why the decision was made.
 - (3) A statement setting forth the applicant/employee's right to obtain a free disclosure of their file from the credit reporting agency if they makes a request within 60 days.
 - (4) A statement setting forth the applicant/employee's right to dispute directly with the credit reporting agency the accuracy or completeness of any information provided by the credit reporting agency.

A sample adverse-action notice be found at: (<http://www.instantcriminalchecks.com/forms/>)

5. **Special Considerations: Truck Drivers**. Special rules apply for truck drivers where the only interaction between you and the applicant/employee is by mail, telephone, or computer. In this case, the applicant/employee may provide consent to the background check orally or electronically, and an adverse action notice may be given orally, in writing, or electronically.

6. **Disposal of Records**. Federal regulations require that when you no longer have a need for the consumer reports you obtain from us, you must dispose of them using reasonable measures protecting against unauthorized access to or use of the information in connection with its disposal. Examples of "*reasonable measures*" include:

- Policies and procedures requiring the burning, pulverizing, or shredding of papers containing consumer information such that the information cannot practicably be read or reconstructed
- Policies and procedures requiring destruction or erasure of electronic media containing consumer information such that the information cannot practicably be read or reconstructed
- Hiring a third party to destroy files; however, *prior to hiring the third party*, you should
 - (1) check the company's references or other reliable sources,
 - (2) require certification by a recognized trade association or similar third party, or
 - (3) review and evaluate the company's information security policies or procedures.
- *After hiring*, you should monitor the company's compliance with the "reasonable measures" of disposal listed above.