

Checklist: Fair Credit Reporting Act (FCRA) Compliance

The Fair Credit Reporting Act (FCRA) governs how employers obtain and handle consumer reports, which include criminal history background checks. When an employer uses a third party to conduct background checks, the employer must advise the applicant or employee in writing that a background check will be conducted and obtain the individual's written authorization to obtain the records. Certain other disclosures are required upon the applicant or employee's request and prior to taking any adverse action based on the reports obtained. Employers must also comply with state and local laws regarding the use of consumer reports.

The following checklist can be used to ensure compliance with the requirements of the FCRA.

- Provide written notice in a stand-alone document to the applicant or employee that a background check will be conducted, and the information will be used when making employment decisions.
- If an investigative report that includes personal interviews concerning a person's character, general reputation, personal characteristics, and lifestyle will be conducted, notify the applicant or employee of this in writing and include a statement that the individual has a right to request additional disclosures and a summary of the scope and substance of the investigative report.
- Obtain the applicant or employee's written consent to obtain the background check and/or investigative report.
- Provide certification to the company that is providing the background check information that you have obtained the individual's permission, complied with all FCRA requirements and will not discriminate or otherwise misuse the information in the report.
- If a decision is made to take an adverse action based on the background check information, provide the individual with a notice of pre-adverse action that includes a copy of the background check results and a copy of A Summary of Your Rights Under the Fair Credit Reporting Act.
- Allow the individual at least five business days to dispute the information in the background check before making a final employment decision.
- Make a final decision. If an adverse action is taken, provide the applicant or employee with a final notice of adverse action that includes the following:
 - The name, address, and phone number of the consumer reporting company that supplied the report;
 - A statement that the company that supplied the report did not make the decision to take the unfavorable action and can't give specific reasons for it; and
 - A notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within 60 days.
- Retain records as required under state and federal law and dispose of records by burning, pulverizing, or shredding paper documents and disposing of electronic information so that it can't be read or reconstructed.