



Employers run background checks to help them make informed business decisions about applicants, employees, contractors and volunteers. A background report could contain potentially adverse information like a serious criminal conviction. This can cause the employer to consider an adverse action, such as denying employment, which is unfavorable to the consumer.

Before taking an adverse action, you must follow a few simple steps to comply with a federal law called the Fair Credit Reporting Act (FCRA).i



1. Send a Pre-Adverse Notice

This notice informs the person that something in their background check is causing you to consider an adverse action. At this point, no adverse action has occurred. The notice simply indicates one is being considered.

The notice must be accompanied by a copy of the background check and a document called A Summary Of Your Rights Under The FCRA. Some states may have additional requirements. For example, California employers must follow regulations established by State Assembly Bill 1008. Consult your legal counsel to determine if any state laws apply where you operate.



2. Wait A Reasonable Amount Of Time

The FCRA mandates consumers must have a “reasonable” amount of time to review their background check and consider whether or not to file a dispute. No exact time is specified but best practice is to wait at least five business days.

If the applicant believes some information in their report is inaccurate or outdated, they may file a dispute with the Consumer Reporting Agency (CRA) that produced the background check. If no dispute is filed, you can skip ahead to step 5 in the Adverse Action Process.



3. Disputes

When an applicant files a dispute with Backgrounds Online, we inform the employer immediately and let them know we are conducting a reinvestigation. Until this is complete, the employer must hold off on taking any adverse action. In most cases we complete the reinvestigation within 3 to 5 business days.

If an applicant contacts you and asks about filing a dispute, please direct them to our website or reach out to us directly. The applicant can file a dispute online or call us at 800-838-4804.



4. Dispute Resolution

Our reinvestigation will either determine that the information in the original background check was correct or something was inaccurate.

If the original background check report was correct, we send another copy to the consumer and inform you of the result. You may then consider any new information the individual provides, such as a reasonable explanation regarding a conviction or notification that a case is open due to a failure to appear, unpaid fine or another situation that can be easily remedied.

If the original background check was incorrect, a revised version will be provided to you and the person who was screened. Learn more about the dispute process.



5. No Dispute

If no dispute is filed (after you've waited a reasonable amount of time), then you may continue by sending an adverse notice. The notice must include contact information for the CRA and an additional copy of the Summary Of Your Rights Under The FCRA.



State Laws

Some states require extra steps to the adverse action process. The most common is to conduct an individualized assessment before making a decision. While these laws differ by state, best practice is to consider:

How long ago the offense occurred.

Whether or not an offense is relevant to the position.

If the person poses an actual risk to your company, staff, customers or the public.

Evidence of rehabilitation.



Make Sure Your Notices Are Compliant

Both your pre-adverse and adverse notices must provide a name, address and phone number for the CRA (that's us – Backgrounds Online) that produced the report. This provides full transparency and shows the person how to contact us if necessary.

California and New York employers should note that there are extra steps they must take.

For your convenience, we provide sample pre-adverse and adverse sample forms, along with state notices and other essential documents in our Resource Center. You can download and review them with your legal counsel to ensure you are fully compliant with all active laws where you operate.