

How to Complete a FCRA-Compliant Criminal Background Check for Employment Purposes

If you use criminal background check reports provided by Direct Screening for employment purposes - including for employees, independent contractors, agents, or volunteers (where a background check is required as a condition of placement) - you must comply with the Fair Credit Reporting Act (FCRA) and any applicable state or local laws.

This guide applies only to employment-related background checks and does not address background checks conducted for personal use, tenant or housing screening, credit decisions, or other non-employment purposes.

The FCRA establishes specific procedures that employers must follow when obtaining and using consumer reports for employment decisions. You are responsible for understanding and complying with these requirements.

Direct Screening provides background check reports only and does not make employment or suitability decisions.

A key resource is the Consumer Financial Protection Bureau (CFPB) publication titled “Notice to Users of Consumer Reports: Obligations Under the FCRA,” which is available in our FCRA Downloadable Forms area.

The overview below summarizes the standard FCRA-compliant background check process. It is not legal advice and does not address every possible scenario. You should also be aware of state and local laws that may impose additional requirements.

Before Ordering a Criminal Background Check

Before ordering a criminal background check from Direct Screening, you must complete both of the following steps.

1. Provide a Clear and Stand-Alone Disclosure

You must provide the applicant with a written disclosure stating that you intend to obtain a criminal background check for employment purposes.

- The disclosure must be clear and conspicuous
- It must be provided in a document that consists solely of the disclosure

- It may not be combined with employment applications, liability waivers, or other acknowledgments

Sample disclosure forms are available in our FCRA Downloadable Forms area. You should retain a copy of the disclosure in the applicant's file.

2. Obtain Written Authorization

You must obtain the applicant's written authorization before ordering a criminal background check.

- Authorization must be obtained before the report is ordered

Sample authorization forms are available in our FCRA Downloadable Forms area. You should retain the authorization in the applicant's file.

Once these steps are completed, you may order a criminal background check through our website.

After the Background Check Is Returned

Once the background check is complete, the next steps depend on whether any criminal records are returned.

If No Criminal Records Are Returned

If the report does not contain any criminal records, the background check process is complete. No additional FCRA-related action is required.

If Criminal Records Are Returned

If criminal records are returned, you must review them carefully and determine whether they affect your employment decision.

- If you decide to proceed with hiring or placement, the process is complete
 - If you may decide not to hire or place the applicant based in whole or in part on the report, you must follow the adverse action process outlined below
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Considering Adverse Action

If you determine that information in the background check may negatively affect an employment decision, you are considering an adverse action under the FCRA.

The FCRA is designed to protect individuals from being adversely affected by inaccurate or incomplete information in consumer reports. Criminal record information may occasionally be incomplete, outdated, or inaccurately associated with an individual. For this reason, the FCRA requires that applicants be given an opportunity to review and dispute the report before a final adverse employment decision is made.

Employers should ensure that any employment decision complies with applicable equal employment opportunity laws and is based on job-related criteria.

Pre-Adverse Action Requirements

Before taking final adverse action, you must provide the applicant with all of the following:

1. A Pre-Adverse Action Notice
2. A copy of the background check report
3. A copy of the CFPB's "Summary of Your Rights Under the Fair Credit Reporting Act"

You must then allow the applicant a reasonable period of time - no fewer than five business days - to review the report and dispute any information.

The Pre-Adverse Action Notice should clearly state:

- That an adverse employment decision is being considered
- The name, address, and contact information of Direct Screening
- That Direct Screening did not make the employment decision
- That the applicant has the right to dispute inaccurate or incomplete information
- That a final employment decision has not yet been made

Sample Pre-Adverse Action letters are available in our FCRA Downloadable Forms area.

Important: Some states impose additional notice, timing, and content requirements. You are responsible for complying with all applicable state and local employment laws.

Disputes and Reinvestigation

If the applicant disputes any information in the report, they should contact Direct Screening directly and submit a dispute form, which is available in our FCRA Downloadable Forms area.

Disputes are typically initiated by contacting us at:
support@directscreening.com

Once a dispute is received, Direct Screening will conduct a reinvestigation in accordance with the FCRA.

- The FCRA allows up to 30 days to complete a reinvestigation
- If information is updated or corrected, a revised report will be issued to both you and the applicant
- If no changes are made, both parties will be notified of the outcome

You should not make a final adverse employment decision while a dispute is pending.

Final Adverse Action

After the dispute period has ended, or after a reinvestigation is completed, you may make a final employment decision.

If you decide not to hire or place the applicant based on the background check, you must provide a Final Adverse Action Notice, which includes:

- Notice that adverse employment action has been taken
- The name and contact information of Direct Screening
- A statement that Direct Screening did not make the employment decision
- Notice of the applicant's right to obtain another free copy of the report within 60 days
- Notice of the applicant's right to dispute the accuracy or completeness of the report

Sample Final Adverse Action letters are available in our FCRA Downloadable Forms area.

Available FCRA Forms and Resources

As a Direct Screening customer, you have access to the following resources:

- Sample Consumer Report Disclosure
- Sample Consumer Report Authorization
- The Fair Credit Reporting Act

- Summary of Consumer Rights Under the FCRA
 - Notice to Users of Consumer Reports: Obligations Under the FCRA
 - Sample Pre-Adverse Action Letter
 - Sample Dispute Form
 - Sample Final Adverse Action Letter
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Questions

If you have any questions about completing a FCRA-compliant employment background check, please contact us at:

support@directscreening.com

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