

Pre-adverse and Adverse Action Notices

(Pre-adverse Notice) Notify the candidate of any potential adverse action. If you are considering not hiring a candidate, not promoting an employee, or terminating an employee based on information gathered from a background check, the FCRA requires that you notify the individual of the possibility of an adverse action in writing. In other words, you have to notify the candidate before you make your final decision. You must also provide a copy of the background report and a copy of “A Summary of Your Rights under the Fair Credit Reporting Act” that explains the candidate’s rights, and the names of agencies to contact for more information. Back Track Screening provides a general template for the Pre-adverse notice that can be edited prior to sending via email or post. Our system will also time and date stamp any notices sent the applicant.

Allow time for the candidate to review. While the FCRA only requires employers to wait “a reasonable amount of time,” the FTC has stated that a period of five business days is sufficient before pursuing an adverse action. That gives the candidate or employee the opportunity to dispute the information in the background check. Waiting five business days has also been upheld by the courts.

Reinvestigate disputed information. If any details on the report are in dispute, Back Track Screening will reinvestigate and provide an updated report to you and to the person who was screened.

(Adverse action notice) Finalize the adverse action. If you have followed all the required steps in conducting a background check, then you can move forward with the adverse action. Make sure to send a notice of the adverse action to the job applicant or employee. A general template is also provided for this process. The notice can be emailed or printed and our system will keep a copy of the notice and track if it is viewed or not by your applicant (if sent electronically)