

Unsure if you will hire after spotting something on a report? Make sure you stay compliant! If you find yourself in this situation and you are unsure if the candidate is suitable for the job you are advertising make sure you follow the Adverse Action process. Adverse Action is a two step process enforced by law under the Fair Credit Reporting Act (FCRA) to protect candidates from discrimination, and if not followed by employers, can result in hefty fines and legal issues. It requires a "Pre-Adverse Action Notice" to be sent out to a candidate in order to allow them to explain their report before a final decision not to hire is made. "Adverse Action Notice" is required to notify a candidate of unsuccessful application.

Step 1:*Not sure if you will hire?*

- Send the Pre-Adverse Action Notice explaining the results of background check are being reviewed.
- Attach a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act"
- Include a copy of candidate's report.
- Keep a copy of all documents and a receipt.
- Use certified mail if you are sending the notice yourself. Protect yourself!
- Allow the candidate at least 5 days to respond before taking any further action.

Step 2:*Made your decision not to hire?*

- Send the Adverse Action Notice to the applicant explaining the decision which lead to the denial of employment was at least in part affected by the background check results.
- Include contact information for the Consumer Reporting Agency which performed the check. Explain the CRA's inability to explain why the decision was made as they are not the decision making body.
- Inform the candidate of their right to request a free copy of the background check within 60 days.
- Keep all letters and attachments. Make a note of the date everything was sent.
- Use certified mail if you are sending the notice yourself. Protect yourself!

You can find all the content you need on our resource pages. We have everything to make the process as easy for you as possible, from useful guides to PDF forms and information documents!

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