



Background screening reports

When you apply for a job, the employer may, with your consent, request a background screening report on you.

A background screening report, also known as a background check, can include information from public records, including criminal records. If you have been arrested or convicted, you likely have a criminal record or RAP (Record of Arrests and Prosecutions).

So that you know what a potential employer may see about you, it's a good idea to request your own background screening report and check it for errors. However, keep in mind that not every consumer reporting company has information on everyone. For a list of several employment background screening providers see <https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/consumer-reporting-companies/companies-list/>

Know your rights

Federal law (the Fair Credit Reporting Act) gives you certain rights and protections when it comes to the information in your background screening reports and how employers and others may use them. State laws may provide additional protections.

Under federal law, you have the right to receive:

Prior notice: The employer must tell you that it might use information from the report to make a decision about your employment.

Prior written consent: The employer must ask

for your written permission before getting the report (except in the trucking industry where, under certain circumstances, it also may be given by oral or electronic means). You are not required to give permission. However, if you don't, the employer may reject your application. If an employer obtains your background report without your permission, you can submit a complaint with the Consumer Financial Protection Bureau (CFPB) or the Federal Trade Commission (FTC).

Your own copy and a summary of your rights before the employer takes any "adverse action":

The employer must give you a copy of the report, and a document called "A Summary of Your Rights under the Fair Credit Reporting Act" before taking any action - such as not hiring, retaining or promoting you - because of something in the report.

Adverse action notice: If you do not get hired, retained, or promoted because of information in your background report, the employer must tell you orally, in writing, or electronically:

- The name, address, and phone number of the company that supplied the report
- That the company that provided the report didn't make the decision to take an "adverse action" and can't give you the specific reasons for it
- That you have the right to dispute the accuracy or completeness of any information in the report, and to get an additional free report from the company that supplied it, if you request it within 60 days of the employer's decision not to hire or retain you

Some employers might say not to apply if you have a criminal record. That could be discrimination. If this happens, contact the EEOC at <https://www.eeoc.gov/contact-eeoc>.

Disputing errors

If possible, request the name of the background screening company the employer plans to use at the time you provide consent. You can use this information to request a copy of that report.

If there is a mistake in the background screening report and you wish to dispute it, immediately inform the background screening company that provided the report. For example, when the background screening report includes information about an arrest that happened more than seven years ago.

First, inform the background screening company in writing of the error or information you are disputing. You can tell the employer about the mistake as well. You can also include documentation to show the accurate or complete information, either online or through the mail. You may wish to choose to use certified mail, return receipt requested so that you have a record. Don't send originals, but send copies of documents. You may need to get the underlying criminal history data from the courthouse or state repository (See Handout: Obtaining your criminal records).

The background screening company generally has 30 days (an additional 15 days in some circumstances) from the time it receives your dispute to investigate and respond to it. The background screening company must review and consider all relevant information that you submit. Once the company completes the investigation it has 5 business days to notify you.

If there is a mistake in the background screening report, the background screening company must fix it, and send a copy of the corrected report to the employer. If the background screening company does not correct the errors, and remove the inaccurate, incomplete, or unverifiable information, you can submit a complaint with the CFPB or the FTC. Go to <https://www.consumerfinance.gov/complaint> or <https://www.ftc.gov/faq/consumer-protection/submit-consumer-complaint-ftc>. You can also file a lawsuit.

Request additional help

Obtaining, checking, and correcting your background screening report may include many steps. It may involve requesting and/or correcting criminal records and other data from multiple states, which may involve visiting each court that originated the records. Help from an attorney may be necessary to ensure your background screening report and your criminal records are accurate. Visit <https://cleanslateclearinghouse.org/states/> to find help in your state.