

Fair Credit Reporting Act (FCRA) Compliance Flow Chart

When using a third party to conduct background investigations on employees and applicants, employers must comply with the requirements outlined by the FCRA. The flowchart below summarizes the steps in the process and information employers are required to provide employees and applicants, in compliance with the FCRA.

Have job applicant sign the authorization form and the disclosure form. These are separate forms which must be clear and conspicuous. Provide the Summary of Your Rights Under the Fair Credit Reporting Act (with security freeze rights language).

*NOTE: There may be additional notices required by state law that need to be provided.

Initiate the pre-employment screening process with Credit Reporting Agency (CRA).

CRA processes request and produces a completed report.

Report returns information which may pose a challenge in the hiring process.

No adverse information was returned in the report.

Supply Applicant With:

1. Pre-Adverse Action letter, and a copy of the Summary of Your Rights Under the Fair Credit Reporting Act, and a copy of the applicable background report making sure it complies with FCRA.
2. Conduct individualized assessment to determine job relatedness per the EEOC guidelines:
 - Nature and gravity of offense; and
 - Time passed since offense; and
 - Nature of job held or sought
 NOTE: Employers might want to give the applicant the opportunity to explain.

Hire Applicant

After five business days, make a hiring decision. If considering adverse action, consider seeking legal counsel.

Adverse hiring decision?

No

Hire Applicant

Yes

Send applicant Adverse Action Letter making sure it complies with FCRA. If applicant contacts CRA to express that he/she is a victim of fraud or identity theft, provide a Summary of Your Identity Theft Rights Under the Fair Credit Reporting Act.

NOTE: Applicant has the right to dispute the report within 60 days.