

## Proper Adverse Action Procedures

Proper Adverse Action procedures benefit the employer and the applicant/employee. By ensuring this process is in place and occurs, the employer will avoid fines, penalties and lawsuits occurring at an alarming rate. The applicant/employee can ensure their information is correct and contest any inaccurate data. If inaccurate data is on the report, a full investigation is conducted and the report is updated. This is also the law. If your company is not following the below procedures, we highly suggest you work with legal counsel to update the process as soon as possible. Feel free to contact us with any questions. Best practices include:

### **Before a report is requested:**

In a document that is separate from the job application, provide the applicant:

- A clear and conspicuous written disclosure to the applicant/employee that an investigative consumer report may be obtained for employment purposes.
- The name, address, and telephone number of the agency.  
The nature and scope of the requested report.
- A checkbox by which the applicant/employee may indicate that he/she wishes to receive a copy of any report that is prepared.
- A summary of the applicant's/employee's rights to view any files the agency maintains on him/her.
- The employer must provide a summary of the applicant's/employee's rights (FCRA version) to the applicant.
- The employer must obtain written authorization from the applicant/employee.

### **After a report is received:**

- If the applicant/employee indicated by the checkbox (mentioned above) that he/she wishes to receive a copy of the report, the recipient of the report shall send a copy of the report to the applicant/employee within three business days of the date that the report is provided to the recipient. The recipient may contact your company or iprospectcheck to send a copy. The report shall contain the name, address, and telephone number of the agency who issued the report.
- The recipient shall use the report only for employment purposes and only for the employer's own use.
- If a report contains a notice of address discrepancy, the recipient should employ reasonable policies and procedures to know the identity of the person to whom the report pertains.



### If Adverse Action is to be taken:

Before taking any adverse action, based at least in part on information obtained from an agency,

- The employer must supply the “**Pre-Adverse Action**” notice.
- The employer must provide the applicant/employee a copy of the report.
- The employer must provide the applicant/employee a summary of the applicant’s/employee’s rights (FCRA version).
- **iProspectcheck can automate the Pre-Adverse Action process for you.**
- Login to your user portal to order the “*Pre-Adverse Action Letter*” to meet the requirements above.
- We recommend waiting at *minimum five working days* before sending your official adverse actions letter to your applicant. This helps ensure enough time is given to your applicant to dispute any discrepancies found on the report.

### Adverse Action notices:

Any adverse action under circumstances in which a report regarding the applicant/employee was obtained from an investigative consumer reporting agency, the user of the investigative consumer report shall advise the applicant/employee against whom the adverse action has been taken and supply the applicant/employee a written notice of the adverse action, including

- A statement of the applicant’s/employee’s right to dispute directly with the agency the accuracy or completeness of any information provided by the agency.
- Provide notice of the adverse action to the consumer.
- Provide the consumer with contact information for the CRA that prepared the report.
- Provide the consumer with a summary of rights under the FCRA.
- **iProspectcheck can automate the Adverse Action process for you.**
- Simply login to your user portal to order the “*Adverse Action Notice*” to meet the requirements above.

With our **Automated Adverse Action** process in place you will have taken a big step toward eliminating a looming potential legal liability that is created when you make the decision NOT to hire someone based even partially on information contained in their background check.