



Connecting Older Adults with Community-based Resources and Options

POLICY FOR CONDUCTING CRIMINAL BACKGROUND CHECKS

Note: This policy is in accordance with the Fair Credit Reporting Act (FCRA). The FCRA is the primary federal law regulating employment background checks. Despite its name the FCRA applies to all employment backgrounds checks conducted by a third party whether they include a credit report or not.

Purpose

AgeOptions recognizes the increasing incidences of exploitive crimes against older adults. In an effort to minimize these incidences, AgeOptions requires a pre-employment criminal background checks for all employees of Area Agency funded programs. In addition, volunteers participating in Area Agency funded programs with in-home client contact, and/or access to confidential client information including, but not limited to addresses, social security numbers, financial info, etc., are also required to complete a background check. The intent of this policy is to reduce risk and increase the level of safety offered to older adults and/or their caregivers through Area Agency funded programs.

Definitions

For the purposes of this policy, the following definitions apply:

- **Applicant** – any person applying for a paid or non-paid position.
- **Area Agency** – refers to AgeOptions, the Area Agency on Aging of suburban Cook County, Illinois.
- **Background check** – includes self-reported information on the employment application and a criminal background check.
- **Client** – any person receiving services from programs funded by the Area Agency, and/or their caregivers.
- **Confidential client information** – information about a client including but not limited to address, social security number, and financial information.
- **Employee** - any person whose salary is paid wholly or partially through Area Agency grants/contracts.
- **Employer** – any entity receiving Area Agency funds for the provision of services to seniors and/or their caregivers.
- **Tested individual** – the employee, volunteer or applicant whose background is being checked.
- **Volunteer** - any person performing unpaid duties in Area Agency funded programs with in-home client contact and/or access to confidential client information.
- **Waiver date** – as shown on Attachment I, Table A. The number of years between the offense and the background check date that must elapse in order for that offense to be deemed “waived.”

Policy

An Employer must conduct a background check on a potential Employee or Volunteer (as defined in this policy) using **all** of the following methods:

1. Include the following question on its employment application:
 - a. Have you ever been convicted of a Felony or Misdemeanor? (Yes/No). If Yes, provide date, place, offense and outcome. (Previous convictions do not necessarily disqualify an applicant from employment.)
2. Conduct a criminal background check on each Employee and Volunteer. The background check must review the previous seven (7) years of the tested individual's life. [Note that designated felony offenses will continue to appear in an individual's results even though the offense may have occurred more than seven years ago.]

Documentation of results from #2 above must be included in applicant's personnel file.

No employee or volunteer shall be permitted to work directly with clients or have access to confidential client information if:

- the results of the background check show the person has been convicted of one or more of the offenses listed in Attachment I, Table A of this policy and a Waiver has not been received and subsequently approved; or
- the results of the background check show the person has been convicted of one or more of the offenses listed in Attachment I, Table B of this policy.

The potential employee or volunteer cannot perform any duties funded by the Area Agency until favorable background check results are received, or if warranted, a Waiver has been received and approved. Employers will be monitored for compliance with this policy. The Area Agency may terminate grant awards and/or contracts for any employer not in compliance with this policy. Written notice will be given prior to the termination of a grant or contract.

The use of information obtained from a criminal background check shall be restricted to determining suitability for employment and/or volunteer opportunities. All employers receiving background information regarding an individual shall maintain the confidentiality of such information. The information should not be used in violation of any applicable Federal or State equal employment opportunity law or regulation.

Criteria for Waiver:

1. Applies only to background check offenses that are listed on Attachment I, Table A.
2. Any offenses on the background check that occurred within the previous five (5) years are not waived offenses.
3. All offenses on the background check that occurred twenty (20) or more years prior are waived offenses.
4. For each offense on the background check that occurred between five (5) and twenty (20) years prior, the waiver status of that offense is determined by Waiver Date as shown on Attachment I, Table A.
5. All offenses on the background check must be considered Waived for the Waiver request to be approved.

Procedure

1. An employee, volunteer or applicant must provide written authorization permitting a background check.
 - a. The written authorization must be provided in a completely separate document that consists solely of the disclosure.
 - b. The written authorization must indicate that the background check is being obtained for employment purposes and that if the background check reveals any evidence of a criminal history, the nature of that history may make them ineligible for employment or volunteer opportunities.
 - c. The disclosure should also include a statement informing the employee, volunteer, or applicant of his or her right to request additional disclosures concerning the nature and scope of the background check, and a copy of a summary of his or her rights under the Fair Credit Reporting Act (please refer to Attachment IV). Also, they must be advised that they have the right to obtain a copy of the background check and to challenge the completeness and accuracy of the results. Please see Attachment III for a sample consent form.
2. The employer must request a pre-employment Non-Fingerprint Criminal Background Check through a competent background check service for all applicable employees, volunteers and applicants. The background check must review at minimum the previous seven (7) years.
3. The employer must review the background check results when they are received.
4. If the background check results reveal no evidence of a criminal history, the employer must file the results in the tested individual's personnel file. The results should not be a factor in any other employment action pertaining to the tested individual.
5. If the background check results reveal any evidence of a criminal history, the employer must determine if any of the identified results appear on Attachment I, either Table A or Table B.
6. If the identified results do not appear on Attachment I, Table A or Table B, the employer must file the results in the tested individual's personnel file. The results should not be a factor in any other employment action pertaining to the tested individual.
7. If the identified results appear on Attachment I (Table A or Table B), the employer must provide the tested individual with a copy of the results of the background check and a copy of a summary of his or her rights under the Fair Credit Reporting Act (see Attachments IV, V and VI).
 - a. If the identified results appear on Attachment I Table A:
 - i. The employer will provide the tested individual with a Waiver request form (see Attachment II) and inform the tested individual of his/her right to submit a Waiver request.
 - ii. If the tested individual submits a Waiver request and the Waiver request is approved, then the tested individual may work or volunteer in an Area Agency funded program.
 - iii. If the tested individual either fails to submit a Waiver request or the Waiver request is denied, then the tested individual is disqualified from working or volunteering in an Area Agency funded program. If an applicant, the tested individual must be eliminated from employment consideration (an adverse

- action). If an employee or volunteer, the tested individual must be terminated from his/her involvement with an Area Agency funded program (an adverse action).
- b. If the identified results appear on Attachment I Table B, the tested individual is disqualified from working or volunteering in an Area Agency funded program. If an applicant, the tested individual must be eliminated from employment consideration (an adverse action). If an employee or volunteer, the tested individual must be terminated from his/her involvement with an Area Agency funded program (an adverse action).
8. After an adverse action has been taken, the employer must give the employee/volunteer/applicant notice of the action. This notice can be given in writing, or electronically and must include:
- a. the name, address, and telephone number of the consumer reporting agency;
 - b. a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken;
 - c. that the employee/volunteer/applicant may obtain a free copy of the consumer report from the consumer reporting agency if requested within 60 days of notice of the adverse action; and
 - d. that the employee/volunteer/applicant may dispute with the consumer reporting agency the accuracy or completeness of any information included in the report furnished by the agency.

ATTACHMENT I

TABLE A: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 5/10-3]	Unlawful Restraint	Criminal Code of 2012	20
[720 ILCS 5/10-3.1]	Aggravated Unlawful Restraint	Criminal Code of 2012	20
[720 ILCS 5/10-4]	Forcible Detention	Criminal Code of 2012	20
[720 ILCS 5/10-5]	Child Abduction	Criminal Code of 2012	20
[720 ILCS 5/10-7]	Aiding and Abetting Child Abduction	Criminal Code of 2012	20
[720 ILCS 5/12-1]	Assault	Criminal Code of 2012	20
[720 ILCS 5/12-2]	Aggravated Assault	Criminal Code of 2012	20
[720 ILCS 5/12-3]	Battery	Criminal Code of 2012	20
[720 ILCS 5/12-3.1]	Battery of an Unborn Child	Criminal Code of 2012	20
[720 ILCS 5/12-3.2]	Domestic Battery	Criminal Code of 2012	20
[720 ILCS 5/12-4.5]	Tampering with Food, Drugs or Cosmetics	Criminal Code of 2012	20
[720 ILCS 5/12-7.4]	Aggravated Stalking	Criminal Code of 2012	20
[720 ILCS 5/12-11]	Home Invasion	Criminal Code of 2012	20
[720 ILCS 5/12-21.6]	Endangering the Life or Health of a Child	Criminal Code of 2012	20
[720 ILCS 5/12-32]	Ritual Mutilation	Criminal Code of 2012	20
[720 ILCS 5/12-33]	Ritual Abuse of a Child	Criminal Code of 2012	20
[720 ILCS 5/16-1]	Theft	Criminal Code of 2012	10
[720 ILCS 5/16-2]	Theft of Lost or Mislaid Property	Criminal Code of 2012	10
[720 ILCS 5/16A-3]	Retail Theft	Criminal Code of 2012	10
[720 ILCS 5/16G-15]	Identity Theft	Criminal Code of 2012	10
[720 ILCS 5/16G-20]	Aggravated Identity Theft	Criminal Code of 2012	10
[720 ILCS 5/17-3]	Forgery	Criminal Code of 2012	10
[720 ILCS 5/18-1]	Robbery	Criminal Code of 2012	20
[720 ILCS 5/18-3]	Vehicular Hijacking	Criminal Code of 2012	20
[720 ILCS 5/19-1]	Burglary	Criminal Code of 2012	5
[720 ILCS 5/19-3]	Residential Burglary	Criminal Code of 2012	5
[720 ILCS 5/19-4]	Criminal Trespass to Residence	Criminal Code of 2012	5
[720 ILCS 5/20-1]	Arson	Criminal Code of 2012	20
[720 ILCS 5/20-1.1]	Aggravated Arson	Criminal Code of 2012	20
[720 ILCS 5/20-1.2]	Residential Arson	Criminal Code of 2012	20
[720 ILCS 5/24-1]	Unlawful Use of a Weapon	Criminal Code of 2012	20
[720 ILCS 5/24-1.1]	Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities	Criminal Code of 2012	20

TABLE A CONTINUED: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 5/24-1.2]	Aggravated Discharge of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.2-5]	Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.5]	Reckless Discharge of a Firearm	Criminal Code of 2012	20
[720 ILCS 5/24-1.6]	Aggravated Unlawful Use of a Weapon	Criminal Code of 2012	20
[720 ILCS 5/24-3.2]	Unlawful Discharge of Firearm Projectiles	Criminal Code of 2012	20
[720 ILCS 5/24-3.3]	Unlawful Sale or Delivery of Firearms on the Premises of Any School	Criminal Code of 2012	20
[720 ILCS 5/33A-2]	Armed Violence	Criminal Code of 2012	20
[225 ILCS 65/10-5]	Practice of Nursing without a License	Nurse Practice Act	10
[720 ILCS 150/4]	Endangering Life or Health of a Child	Wrongs to Children Act	20
[720 ILCS 150/5.1]	Permitting Sexual Abuse of a Child	Wrongs to Children Act	20
[720 ILCS 115/53]	Cruelty to Children	Criminal Jurisprudence Act (Cruelty to Children)	20
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	Credit Card & Debit Card Act	20
[720 ILCS 250/5]	Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer	Credit Card & Debit Card Act	20
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, without the Consent of the Issuer	Credit Card & Debit Card Act	20
[720 ILCS 250/8]	Using a Credit or Debit Card with the Intent to Defraud	Credit Card & Debit Card Act	20
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	Credit Card & Debit Card Act	20
[720 ILCS 550/5]	Manufacture, Delivery, or Possession with Intent to Deliver, or Manufacture, Cannabis	Cannabis Control Act	5
[720 ILCS 550/5.1]	Cannabis Trafficking	Cannabis Control Act	5
[720 ILCS 550/5.2]	Delivery of Cannabis on School Grounds	Cannabis Control Act	5
[720 ILCS 550/7]	Delivering Cannabis to a Person under 18	Cannabis Control Act	5
[720 ILCS 550/9]	Calculated Criminal Cannabis Conspiracy	Cannabis Control Act	5

TABLE A CONTINUED: Disqualifying Offenses that May Be Considered for a Waiver			
Illinois Compiled Statutes Citation	Offense	Act	Waiver date (years since date of offense)
[720 ILCS 570/401]	Manufacture or Delivery, or Possession with Intent to Manufacture or Deliver, a Controlled Substance Other than Methamphetamine, a Counterfeit Substance, or a Controlled Substance Analog	Illinois Controlled Substances Act	5
[720 ILCS 570/401.1]	Controlled Substance Trafficking	Illinois Controlled Substances Act	5
[720 ILCS 570/404]	Distribution, Advertisement, or Possession with Intent to Manufacture or Distribute a Look-alike Substance	Illinois Controlled Substances Act	5
[720 ILCS 570/405]	Calculated Criminal Drug Conspiracy	Illinois Controlled Substances Act	5
[720 ILCS 570/405.1]	Criminal Drug Conspiracy	Illinois Controlled Substances Act	5
[720 ILCS 570/407]	Delivering a Controlled, Counterfeit or Look-alike Substance to a Person under 18	Illinois Controlled Substances Act	5
[720 ILCS 570/407.1]	Engaging or Employing Person under 18 to Deliver a Controlled, Counterfeit or Look-alike Substance	Illinois Controlled Substances Act	5
[720 ILCS 646]	Violations under the Methamphetamine Control and Community Protection Act	Illinois Controlled Substances Act	5

TABLE B: Offenses that Are Always Disqualifying		
Illinois Compiled Statutes Citation	Offense	Act
[720 ILCS 5/8-1.1]	Solicitation of Murder	Criminal Code of 2012
[720 ILCS 5/8-1.2]	Solicitation of Murder for Hire	Criminal Code of 2012
[720 ILCS 5/9-1]	First Degree Murder	Criminal Code of 2012
[720 ILCS 5/9-1.2]	Intentional Homicide of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-2]	Second Degree Murder	Criminal Code of 2012
[720 ILCS 5/9-2.1]	Voluntary Manslaughter of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-3]	Involuntary Manslaughter and Reckless Homicide	Criminal Code of 2012
[720 ILCS 5/9-3.1]	Concealment of Homicidal Death	Criminal Code of 2012
[720 ILCS 5/9-3.2]	Involuntary Manslaughter and Reckless Homicide of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/9-3.3]	Drug Induced Homicide	Criminal Code of 2012
[720 ILCS 5/10-1]	Kidnapping	Criminal Code of 2012
[720 ILCS 5/10-2]	Aggravated Kidnapping	Criminal Code of 2012
[720 ILCS 5/11-6]	Indecent Solicitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-9.1]	Sexual Exploitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-9.5]	Sexual Misconduct with a Person with a Disability	Criminal Code of 2012
[720 ILCS 5/11-19.2]	Exploitation of a Child	Criminal Code of 2012
[720 ILCS 5/11-20.1]	Child Pornography	Criminal Code of 2012
[720 ILCS 5/12-3.3]	Aggravated Domestic Battery	Criminal Code of 2012
[720 ILCS 5/12-4]	Aggravated Battery	Criminal Code of 2012
[720 ILCS 5/12-4.1]	Heinous Battery	Criminal Code of 2012
[720 ILCS 5/12-4.2]	Aggravated Battery with a Firearm	Criminal Code of 2012
[720 ILCS 5/12-4.2-5]	Aggravated Battery with a Machine Gun or a Firearm Equipped with Any Device or Attachment Designed or Used for Silencing the Report of a Firearm	Criminal Code of 2012
[720 ILCS 5/12-4.3]	Aggravated Battery of a Child	Criminal Code of 2012
[720 ILCS 5/12-4.4]	Aggravated Battery of an Unborn Child	Criminal Code of 2012
[720 ILCS 5/12-4.6]	Aggravated Battery of a Senior Citizen	Criminal Code of 2012
[720 ILCS 5/12-4.7]	Drug Induced Infliction of Great Bodily Harm	Criminal Code of 2012
[720 ILCS 5/12-13]	Criminal Sexual Assault	Criminal Code of 2012
[720 ILCS 5/12-14]	Aggravated Criminal Sexual Assault	Criminal Code of 2012

TABLE B CONTINUED: Offenses that Are Always Disqualifying

Illinois Compiled Statutes Citation	Offense	Act
[720 ILCS 5/12-14.1]	Predatory Criminal Sexual Assault of a Child	Criminal Code of 2012
[720 ILCS 5/12-15]	Criminal Sexual Abuse	Criminal Code of 2012
[720 ILCS 5/12-16]	Aggravated Criminal Sexual Abuse	Criminal Code of 2012
[720 ILCS 5/12-19]	Abuse and Criminal Neglect of a LTC Facility Resident	Criminal Code of 2012
[720 ILCS 5/12-21]	Criminal Abuse or Neglect of an Elderly Person or Person with a Disability	Criminal Code of 2012
[720 ILCS 5/16-1.3]	Financial Exploitation of an Elderly Person or a Person with a Disability	Criminal Code of 2012
[720 ILCS 5/18-2]	Armed Robbery	Criminal Code of 2012
[720 ILCS 5/18-4]	Aggravated Vehicular Hijacking	Criminal Code of 2012
[720 ILCS 5/18-5]	Aggravated Robbery	Criminal Code of 2012

ATTACHMENT II

Waiver Request Form

Name of tested individual:	
Position:	
Funded by Title :	<input checked="" type="checkbox"/> IIIB <input type="checkbox"/> IIIC1 <input type="checkbox"/> IIIC2 <input checked="" type="checkbox"/> IIID <input type="checkbox"/> IIIE <input type="checkbox"/> APS
Date of background check:	

I request that _____ [Employer Organization] review the results of my background check as dated above to determine whether any offenses may be waived from disqualifying my employment.

Signature

Date

FOR EMPLOYER USE ONLY

Waiver Criteria – to be answered in sequence by employer

1. Were any background check results from Table B?	YES – STOP. Waiver denied	NO – go to next question
2. Did <u>any</u> background check offenses from Table A occur less than five (5) years prior?	YES – STOP. Waiver denied	NO – go to next question
3. Did <u>all</u> background check offenses from Table A occur twenty (20) or more years prior?	YES – STOP. Waiver approved	NO – go to next question
4. Does each background check offense meet the Waiver Date requirement as shown on Attachment I, Table A?	YES – STOP. Waiver approved	NO – STOP. Waiver denied

I have reviewed the results of this tested individual’s background check and determined that based on current policy, this Waiver request is **DENIED** **APPROVED**

Signature

Printed name

Title

Date

ATTACHMENT III

[TO BE USED WHEN CONSUMER REPORT IS REQUESTED]

**FAIR CREDIT REPORTING ACT CONSUMER REPORT DISCLOSURE AND
GENERAL AUTHORIZATION**

In connection with my application for employment with _____, I understand that a consumer report may be obtained by both _____ and AgeOptions from a consumer reporting agency (“Agency”). I further understand that the Agency may not give out information about me to _____ or AgeOptions without my written consent. It is also understood that the Agency may not report medical information about me to _____ or AgeOptions without my specific prior consent as to the release of such information, which is in addition to my general authorization herein.

I hereby authorize _____ and AgeOptions now, or at any time while I am employed by _____, to obtain a consumer report on me. This authorization does not include the release of my medical information. I further acknowledge that I have received a summary of my rights under the Fair Credit Reporting Act.

Applicant Signature

Today’s Date

Printed Name

ATTACHMENT IV

Para informacion en espanol, visite www.ftc.gov/credit o escribe a la FTC Consumer Response Center, Room 130-A 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - a person has taken adverse action against you because of information in your credit report;
 - you are the victim of identity theft and place a fraud alert in your file;
 - your file contains inaccurate information as a result of fraud;
 - you are on public assistance;
 - you are unemployed but expect to apply for employment within 60 days.

In addition, by September 2005 all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer

reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.

- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.ftc.gov/credit.
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.ftc.gov/credit.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:

TYPE OF BUSINESS:	CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name) "	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Consumer Help (FRCH) P O Box 1200 Minneapolis, MN 55480 Telephone: 888-851-1920 Website Address: www.federalreserveconsumerhelp.gov Email Address: ConsumerHelp@FederalReserve.gov
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name) "	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name) "	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-519-4600
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center 2345 Grand Avenue, Suite 100 Kansas City, Missouri 64108-2638 1-877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation, Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 202-720-7051

ATTACHMENT V

Using Consumer Reports: **What Employers Need to Know**

When you use consumer reports to make employment decisions like hiring, promotion, reassignment, and retention, the Fair Credit Reporting Act requires you to take important compliance steps. Find out more about keeping your company within the law.

Your company has job vacancies to fill. You're also thinking about promoting some employees from within the company. You've winnowed down the stack of applications and resumes and want to run background checks through a third party company who is in the business of compiling background information.

Employment background checks also are known as consumer reports. They can include information from a variety of sources, including credit reports and criminal records.

When you use consumer reports to make employment decisions, including hiring, retention, promotion or reassignment, you must comply with the Fair Credit Reporting Act (FCRA). The Federal Trade Commission (FTC) enforces the FCRA.

COMPLYING WITH THE FCRA

You must take certain steps before you can get a consumer report, and before and after you take an adverse action based on that report.

Before You Get a Consumer Report

You must:

- Tell the applicant or employee that you might use information in their consumer report for decisions related to their employment. This notice must be in writing and in a stand-alone format. The notice cannot be in an employment application. You can include some minor additional information in the notice, like a brief description of the nature of consumer reports, but only if it does not confuse or detract from the notice.
- Get written permission from the applicant or employee. This can be part of the document you use to notify the person that you will get a consumer report. If you want the authorization to allow you to get consumer reports throughout the person's employment, make sure you say so clearly and conspicuously.

Before You Take an Adverse Action

Before you reject a job application, reassign or terminate an employee, deny a promotion, or take any other adverse employment action based on information in a consumer report, you must give the applicant or employee:

- a notice that includes a copy of the consumer report you relied on to make your decision; and
- a copy of [A Summary of Your Rights Under the Fair Credit Reporting Act](#), which the company that gave you the report should have given to you.

Giving the person the notice in advance gives the person the opportunity to review the report and tell you if it is correct.

After You Take an Adverse Action

If you take an adverse action based on information in a consumer report, you must give the applicant or employee a notice of that fact – orally, in writing, or electronically.

An adverse action notice tells people about their rights to see information being reported about them and to correct inaccurate information. The notice must include:

- the name, address, and phone number of the consumer reporting company that supplied the report;
- a statement that the company that supplied the report did not make the decision to take the unfavorable action and can't give specific reasons for it; and
- a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within 60 days.

Investigative Reports

Employers who use "investigative reports" – reports based on personal interviews concerning a person's character, general reputation, personal characteristics, and lifestyle – have additional obligations under the FCRA. These obligations include giving written notice that you may request or have requested an investigative consumer report, and giving a statement that the person has a right to request additional disclosures and a summary of the scope and substance of the report. (See 15 U.S.C. section 1681d(a), (b)).

DISPOSING OF CONSUMER REPORTS

When you're done using a consumer report, you must securely dispose of the report and any information you gathered from it. That can include burning, pulverizing, or shredding paper

documents and disposing of electronic information so that it can't be read or reconstructed. For more information, see [Disposing of Consumer Report Information? Rule Tells How](#).

FOR MORE INFORMATION

Find [specific FCRA information](#) on:

- Getting consumer reports (see Section 604(b) of the FCRA, 15 U.S.C. § 1681b(b));
- Taking an adverse action (see Section 604(b), 15 U.S.C. § 1681b(b), and Section 615(a), 15 U.S.C. § 1681m(a));
- Compliance for the trucking industry (see subsections (b)(2)(B), (b)(2)(c)), and (b)(3) of Section 604(b), 15 U.S.C. § 1681b(b));
- Using investigative consumer reports (see Section 606 of the FCRA, 15 U.S.C. § 1681d);
- Investigating misconduct (see Section 603(y) of the FCRA, 15 U.S.C. § 1681a(x)).

YOUR OPPORTUNITY TO COMMENT

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

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<https://www.ftc.gov/tips-advice/business-center/guidance/using-consumer-reports-what-employers-need-know>

ATTACHMENT VI

Background Checks



Tips For Job Applicants and Employees

Some employers check into your background before deciding whether to hire you or keep you on the job. When they do a background check, you have legal rights under federal law. Depending on where you live, your city or state may offer additional protections. It's important to know whom to contact if you think an employer has broken the law related to background checks, and an equally good idea to check with someone who knows the laws where you live.



Questions About Your Background

An employer may ask you for all sorts of information about your background, especially during the hiring process. For example, some employers may ask about your employment history, your education, your criminal record, your financial history, your medical history, or your use of online social media.

It's legal for employers to ask questions about your background or to require a background check — with certain exceptions. They're not permitted to ask you for medical information until they offer you a job, and they're not allowed to ask for your genetic information, including your family medical history, except in limited circumstances.

When an employer asks about your background, they must treat you the same as anyone else, regardless of your race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age if you're 40 or older. An employer isn't allowed to ask for extra background information because you are, say, of a certain race or ethnicity.

If an employer treats you differently because of your race, national origin, color, sex, religion, disability, genetic information (including family medical history), or older age, or asks you inappropriate questions about your medical status, medical history, or family medical history, contact the Equal Employment Opportunity Commission (EEOC) at eoc.gov or at 1-800-669-4000.

Use of Background Reports

Some employers try to find out about your background by hiring someone to do a “background report” on you. Among the most common are criminal background reports and credit reports. But special rules apply when an employer gets a background report about you from a company in the business of compiling background information.

1. Before getting the report, the employer must tell you that they might use the information to make a decision related to your employment, and must ask for your written permission. You don’t have to give your permission, but if you’re applying for a job and you don’t give your permission, the employer may reject your application. If an employer gets a background report on you without your permission, contact the FTC at ftc.gov or at 1-877-FTC-HELP.
2. If the employer thinks they might not hire, keep, or promote you because of something in the report, they must give you a copy of the report and a “Summary of Rights” that tells you how to contact the company that provided the report. That’s because background reports sometimes have mistakes. If you see a mistake in your background report, ask the background reporting company to fix it, and to send a copy of the corrected report to the employer. Tell the employer about the mistake, too.

Before you apply for a job, it’s a good idea to order a free copy of your credit report. That way, you can fix any mistakes before an employer sees it. To get your free credit report, visit annualcreditreport.com or call 1-877-322-8228. You don’t have to buy any products they offer, and you don’t have to pay to get mistakes corrected.



If the Employer Finds Something Negative in Your Background

If your background report has some negative information, be prepared to explain it — and the reason it shouldn’t affect your ability to do the job. Here is a description of your rights, depending on what type of negative information the employer finds:

Criminal History or Other Public Records:

If you don't get hired or promoted because of information in your criminal history or other public records, the employer must tell you orally, in writing, or electronically:

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

The company that provided the employer with negative information from a criminal history or other public records has certain obligations: it has to tell you that it provided the information and it has to take certain steps to make sure the information is accurate.

Some employers might say not to apply if you have a criminal record. That could be discrimination. If that happens to you, contact the EEOC at eoc.gov or at 1-800-669-4000. Find information on:

- arrest and conviction records in employment decisions (eoc.gov/laws/guidance/qa_arrest_conviction.cfm)
- arrest and conviction records as an automatic bar to all employment (csgjusticecenter.org/wp-content/uploads/2012/11/Reentry_Council_Mythbuster_Employment.pdf)

Credit Report/Financial Information:

If an employer decides not to hire, keep, or promote you based on financial information in a background report, it must tell you — orally, in writing, or electronically. Specifically, the employer must:

- give you the name, address, and phone number of the company that supplied the credit report or background information;
- give you a statement that the company that supplied the information didn't make the decision to take the adverse action and can't give you any specific reasons for it; and
- give you a notice of your right to dispute the accuracy or completeness of any information in your report and to get an additional free report from the company that supplied the credit or other background information if you ask for it within 60 days.

Race, National Origin, Color, Sex, Religion, Disability, Genetic Information, Age:

Sometimes, it's legal for an employer not to hire you or keep you on because of information in your background, and sometimes, it isn't. For example, it's illegal when the employer has different background requirements depending on your race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age, if you're 40 or older. It's also illegal for an employer to reject applicants of one ethnicity with criminal records for a job, but not to reject other applicants with the same criminal records.

Even if the employer treats you the same as everyone else, using background information still can be illegal discrimination. For example, employers shouldn't use a policy or practice that excludes people with certain criminal records if it significantly disadvantages individuals of a particular race, national origin, or another protected characteristic, and doesn't accurately predict who will be a responsible, reliable, or safe employee. In legal terms, the policy or practice has a "disparate impact" and is not "job related and consistent with business necessity."

If you think an employer discriminated against you based on information in your background report, contact the EEOC at eeoc.gov or at 1-800-669-4000.

Medical Condition:

If the employer makes a decision based on information about a medical condition, you can ask for a chance to show that you still can do the job. Find specific information on:

- pre-employment medical inquiries (eeoc.gov/policy/docs/preemp.html)
- medical inquiries during employment (eeoc.gov/policy/docs/qanda-inquiries.html)
- genetic inquiries, including inquiries about family medical history (eeoc.gov/laws/regulations/gina-background.cfm)



Where to Go For Help

The FTC enforces the Fair Credit Reporting Act (FCRA), a federal law that regulates background reports for employment. The EEOC enforces federal laws against employment discrimination.

FTC

If an employer got your background report without asking your permission, or rejected you without sending you the required notices, contact the FTC at ftc.gov or at 1-877-FTC-HELP (1-877-382-4357) or 1-866-653-4261 (TTY).

Why report it to the FTC? Because the FCRA allows the FTC, other federal agencies, and states to sue employers who don't comply with the law's provisions.

The FCRA also allows people to sue employers in state or federal court for certain violations.

To find out how to order free copies of your credit report and how to dispute errors, visit ftc.gov/FreeReports.

EEOC

If you think that a background check was discriminatory, you may contact the EEOC at eeoc.gov, or at 1-800-669-4000 or 1-800-669-6820 (TTY). The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information. The EEOC investigates, conciliates, and mediates charges of employment discrimination, and also files lawsuits in the public interest.

Federal Trade Commission

consumer.ftc.gov

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<https://www.consumer.ftc.gov/articles/pdf-0044-background-checks.pdf>