

Pre-Adverse Action and Adverse Action Letter Explanation

Adverse Action by Employer: An action which will bar an offer of employment based upon information supplied in part or in whole by a Consumer Reporting Agency (CRA)

Pre-Adverse Action Letter: Before you take an adverse action, you must give the individual a pre-adverse action disclosure that includes a copy of the individual's consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" — a document prescribed by the Federal Trade Commission. The CRA that furnishes the individual's report will give you the summary of consumer rights.

Applicant Pre-Adverse Action Documents

If the consumer report provides information that will negatively influence the employment opportunities of the applicant, whether in whole or in part, you must do all of the following BEFORE such an adverse action is made:

- a. Provide the applicant with a copy of the consumer report; and
- b. Provide the applicant a description in writing of their rights under the FCRA as prescribed by the FTC.

This pre-adverse action process allows the applicant the chance to dispute the negative information in the report. The employer should allow a reasonable amount of time for the applicant to respond to this pre-adverse action notification before final determination is made or adverse action is taken. (There is an FTC opinion letter that deems 5 days as reasonable)

Adverse Action Letter: After you've taken an adverse action, you must give the individual notice — orally, in writing, or electronically — that the action has been taken in an adverse action notice. It must include:

The name, address, and phone number of the CRA that supplied the report;

A statement that the CRA that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and

A notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.