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## **How to Complete a FCRA Compliant Criminal Background Check**

Below is a brief overview of the criminal background check FCRA compliant process. This is not meant to contain every detail of the process, but instead give you a broad overview of the process and its purpose. You should be become aware of any state or local laws in your area that can affect this part of the hiring process.

Steps you need to take:

### **Before Ordering a ViaFact Criminal Background Check**

First, you must give the applicant a Disclosure Form that informs him that you will obtain a criminal background check report from ViaFact for employment purposes. This disclosure must be separate from any other paperwork in the hiring process, especially your employment application or any release of liability. Sample Disclosure Forms are available in our FCRA Downloadable Forms Area. You should keep this disclosure form in the applicant's file.

Second, the applicant must sign an Authorization Form that permits you to obtain a criminal background check report for employment purposes. A sample Authorization Form is available in our FCRA Downloadable Forms Area. You should keep this Authorization Form in the applicant's file. Provide a copy of this authorization form and copy of your candidate's State ID to ViaFact with your request form.

You are now ready to order a criminal background check from ViaFact.

### **After You Receive the ViaFact Background Check**

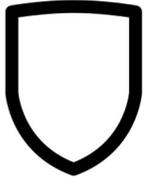
The first question after the background check has been returned is "Were any Criminal Records returned?"

If the answer is no, the criminal background check process is complete. As our report did not contain any information that will affect your hiring process, there is nothing further you are required to do.

However, if a criminal record or records were returned, you have more to complete in the process.

### **If Criminal Records are Returned**

If a criminal record is returned, you must decide if the records returned will affect the hiring process. If you are OK with the results and want to hire the person, the process is complete.



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## **If You Can't Hire the Applicant Because of Criminal Records Returned**

If you decide you can't hire a person based on any information returned in our report, you are making what is known as an "Adverse" decision.

The FCRA protects potential employees from being adversely affected by incorrect information in a consumer report. Please note that a criminal record returned in our report could belong to another person with the same name and date of birth. You should review the record returned closely to be sure it belongs to the person you searched. In addition, the criminal record could have been recorded incorrectly at the courthouse. Because of this potential uncertainty, you must provide the person searched with the ability to dispute the records in their report. This is why before making an adverse decision based on our report, **you are required to provide the applicant a copy of the Consumer Financial Protection Bureau's "Summary of Your Rights under the Fair Credit Reporting Act" and a Pre-Adverse notification.** This should be done at a minimum of five business days before you issue a final adverse decision. This allows the applicant time to notify us that they are disputing the criminal records returned.

The Pre-adverse letter should include:

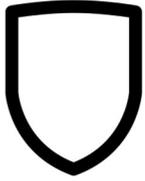
- Notify the subject of the potential decision
- Notify the subject of our company name and contact information
- Notify the subject that we did not make the decision
- Notify the subject that they can dispute any inaccurate or incomplete information in the report with us
- Notify the subject that you will be making your final determination in the next few days

A sample Pre-Adverse letter is available in our FCRA Downloadable Forms Area.

In addition, many states (especially California) have additional requirements concerning your use of our services. You should review state and local law on these matters.

If after reading our report and receiving a Pre-adverse letter, the applicant wishes to dispute any information in our report, you should provide them with one of our dispute forms – which are available in our FCRA Downloadable Forms area and have them contact us. Generally, this is done by having them contact us by e-mail at [contact@viafact.net](mailto:contact@viafact.net). As stated in the pre-adverse letter, you should let them know that you will make a final determination shortly and that they should contact ViaFact to dispute the findings in our report. The purpose here is to let them know that they need to act quickly as in a minimum of five business days you will be issuing an Adverse letter (you will not be hiring them) based on the ViaFact report.

Once we have been contacted by the applicant and received the completed dispute form, we will launch a "reinvestigation" into the disputed items. The FCRA gives us 30 days to complete this reinvestigation. If the



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reinvestigation changes any information in the report, we will reissue the report and send a revised report to both you and the subject. If there are no changes, both parties will also be notified.

You would then review our updated report and make a final employment decision. The decision is often referred to as the “Final Adverse Action” decision.

As a ViaFact customer, you have access to a FCRA Downloadable Forms area. Some of the forms are available there:

- Sample Consumer Report Disclosure
- Sample Consumer Report Authorization
- The Fair Credit Reporting Act
- Summary of Consumer Rights Under the FCRA
- Notice to Users of Consumer Reports: Obligations Under the FCRA
- Sample Pre-adverse action letter
- Sample Dispute Form
- Sample adverse action letter

If you have any questions on completing a FCRA compliant criminal background check, please feel free to e-mail us with your questions at [contact@viafact.net](mailto:contact@viafact.net).