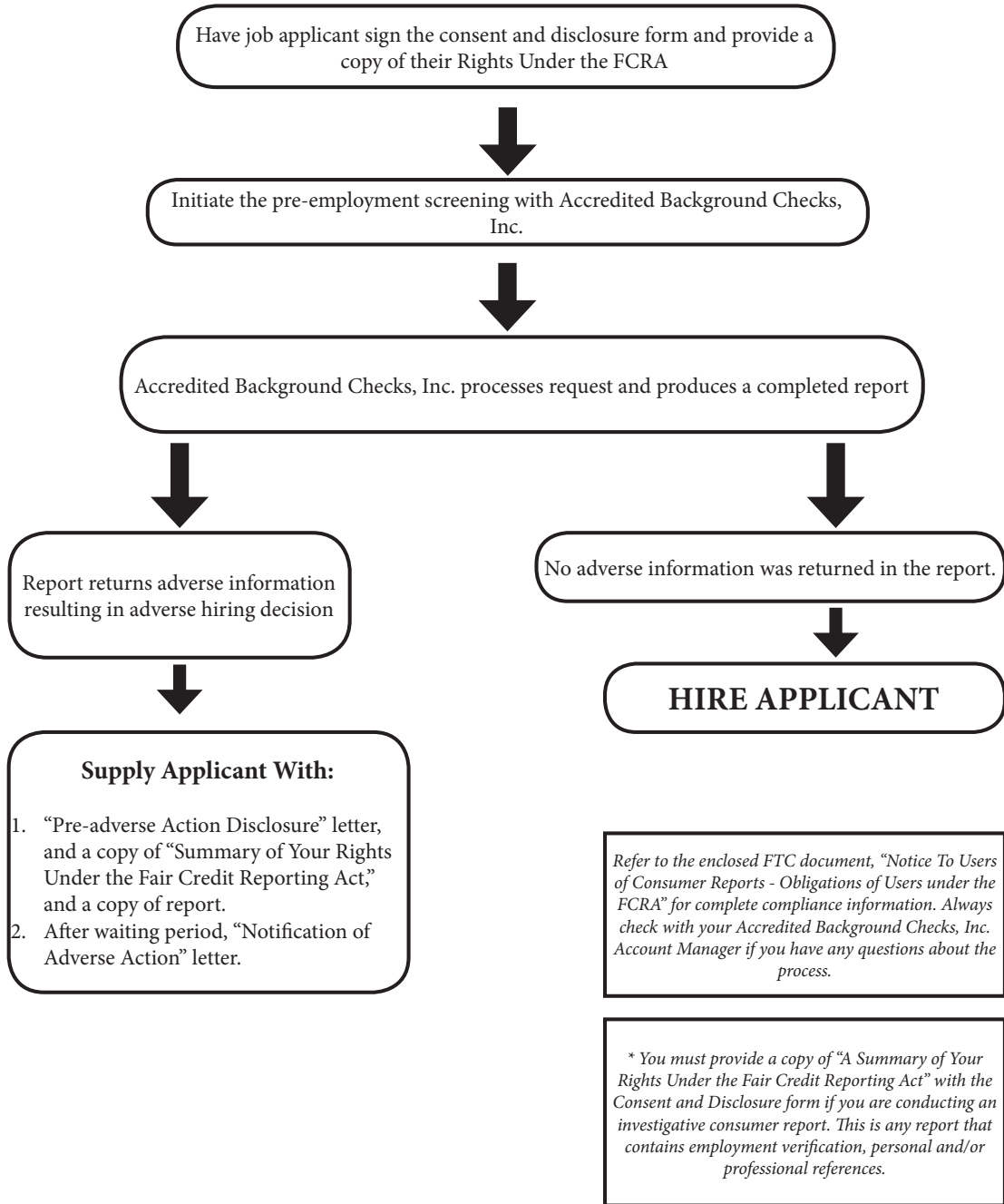


ADDENDUM B: Employer Step-by-Step Process Summary & FCRA Compliance Flow Chart



Background Screening Summary of Process

The purpose of this document is to present educational information about compliance with federal Fair Credit Reporting Act (FCRA) law as it applies to how employers obtain background reports from a background screening company. Employers must also comply with any applicable state, international or industry (e.g. transportation, financial services, healthcare, etc.) regulations. This document is not to be construed as legal advice, nor is it intended to be comprehensive review of the legal aspects surrounding background checking. Accredited Background Checks, Inc. advises its clients to consult with their employment counsel when establishing a background screening program.

The following are the key steps that an employer must take to obtain a background report on an applicant/employee.

1. Optional – Initial Notice

Initial Notice advises all employees and applicants that the employer conducts background screening. If an Initial Notice is used, it must be provided to all employees and applicants in order to not appear discriminatory. It is recommended that such a notice occur prior to requesting written authorization for background screening.

Some method for Initial Notice Include:

- Signs in Human Resources Department or employment application areas
- Letters or notices to current employees
- Statement on the company's website
- Statement in advertising, job postings, employment applications or other recruiting tools

2. Required – Disclosure to Applicant/Employee

Employer discloses in writing to applicant/employee that s/he will be the subject of a background report as part of the employment selection process.

Before a background report for employment purposes may be procured from a background screening company by the employer, disclosure must occur. Disclosure is the act of informing the applicant/employee that s/he will be the subject of a background investigation. The disclosure must be in writing. The FCRA permits the disclosure be combined with the authorization (see #3 below).

The employer must retain the original document. It is recommended that the applicant/employee be offered a copy of the document. Although not required, "A Summary of Your Rights Under the Fair Credit Reporting Act" may be provided to the applicant/employee at this time. However, the

Summary of Rights document must be provided to the applicant/employee whenever a copy of the actual background report is provided to the applicant/employee (see #8 below).

3. Required – Written Authorization

Employer obtains signed authorization for preparation of a background report from applicant/employee.

The FCRA permits the authorization be combined with the disclosure. Further, the disclosure and authorization may also be used to collect identifying information about the applicant/employee. Regardless of whether combined with the disclosure or as a standalone document, the authorization must be signed by the applicant/employee before a background report may be procured from a background screening company.

4. Employer provides information about the applicant/employee to the background screening company and requests background screening.
5. Background screening company conducts the background checks which were requested by employer and prepares background report.
6. Background screening company provides background report to the employer and, if requested by applicant/employee, provides copy to applicant/employee.
7. Employer reviews completed background report and determines if any information will adversely impact employment decision. If no adverse impact results from information in the background report, the employer will proceed with other steps in the employment process.

8. Required – Adverse Action Procedures (Pre-Adverse Action)

If employer is considering an adverse employment action based in whole or part on information in the background report, the employer must:

- a) Notify applicant/employee,
- b) Provide a copy of the background report, and
- c) Provide “A Summary of Your Rights under the Fair Credit Reporting Act.”

An adverse employment action includes not hiring an applicant, not promoting an employee, not retaining an employee, or any other action which has an adverse impact on the individual’s employment status. Whenever an adverse action is being considered based in whole or part on information in the background report, no actual adverse action may be taken until the applicant/employee is so advised. In doing so, the employer must inform the applicant/employee that adverse action is being considered.

Further, the employer must provide the applicant/employee with:

- a) A copy of his/her background report,
- b) A copy of "A Summary of Your Rights under the Fair Credit Reporting Act," and
- c) A reasonable period of time to dispute the accuracy or completeness of information in the report

The FCRA does not specify how long an employer must wait after the pre-adverse action notice before actually taking adverse action. According to the Federal Trade Commission (FTC), employers should "...keep in mind the clear purpose of the provision to allow consumers to discuss reports with employers or otherwise respond before adverse action is taken." Thus, the applicant must have a meaningful opportunity to review the information and to respond.

The FTC has suggested five (5) business days as a reasonable amount of time. If the employer falls under the auspices of the US Department of Transportation, three (3) business days should be allowed.

Although not required by the FCRA, it is recommended that the pre-adverse action notice be provided to the applicant/employee in writing.

9. Applicant/employee contacts background screening company if s/he disputes any information in background report.
10. Background screening company re-investigates any disputed items of information and issues updated report to employer and applicant/employee.

11. Required – Adverse Action Procedures

Employer reviews updated report, if applicable, and makes final employment decision. If the employment decision is adverse, a notice of adverse action is sent to applicant/employee.

If the employee/applicant is denied employment, promotion or is dismissed based in whole or in part on information contained in the background report, s/he must be given a written notice of adverse action. This notice may be given only after the employer has followed the required pre-adverse action process and the applicant/employee has had the opportunity to dispute.

The adverse action notice does not need to include the specific reason for the adverse action, but must:

- a) State that the adverse action is based either in whole or part on information contained in the background report provided by the background screening company.

- b) State that the Consumer Reporting Agency (the background screening company) did not make the adverse employment decision and does not know the basis for the decision.
- c) Include the name, address, and toll free number of the background screening company.
- d) State that the applicant/employee has the right to obtain another free copy of his/her background report within the next 60 days.

Note: If a background report is obtained without disclosure and authorization because of suspected wrongdoing and adverse action is taken, only a summary of the background report need be provided and certain sources may be redacted.