



30-minute Lunch & Learn Webinar

Q2 Adverse Action requirements and Demo

MAY 20, 2026

Legal Disclaimer

- The information and opinions expressed are for educational purposes only and are based on current practice, industry related knowledge and business expertise. The information provided shall not be construed as legal advice, express or implied.



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Agenda



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Compliance

What is FCRA?

What is Adverse Action?

When does Adverse Action apply?

Adverse Action Steps

Common Mistakes and Best Practices

Penalties for Non-Compliance

Fair Chance Hiring Laws



Closing

Questions and Answers

What is the FCRA?

- Fair Credit Reporting Act
- Federal law regulating consumer reports (background checks)
- Applies to background checks for employment, credit and housing
- Enforced by FTC and CFPB

Key Components of FCRA

- Disclosure & Authorization
- 613 Letters
- Pre-Adverse Action
- Waiting Period – typically 5 business days
- Post-Adverse Action
- Applicant Rights –Dispute Resolution Process

What is Adverse Action?

- Any negative employment decision based on a consumer report
 - Examples: denial, termination, reassignment
- Required under the Fair Credit Reporting Act (FCRA)
- Using a third-party consumer reporting agency
- Information in report influences decision

Step 1: Pre-Adverse Action Notice

- Must be sent before final decision
- Notifies applicant of potential denial

Includes:

- Copy of report
- FCRA Summary of Rights
- Allow time to review & dispute inaccuracies
(minimum 5 business days)



Waiting Period

Minimum of 5 business days – check state requirements

Allows applicant to:

- Review report
- Dispute inaccuracies through RSI
- Provide additional context

If disputed, RSI must follow strict FCRA guidelines and has a standard 30 days to resolve the dispute. Most disputes are resolved much faster, and RSI communicates with the client throughout the process.

Step 2: Post-Adverse Action Notice

- Final notification of denial
- Sent after waiting period if no dispute or resolution

Must include:

- Notice of adverse decision
- CRA contact info (Reference Services, Inc.)
- Statement CRA did not make decision
- Right to dispute within 60 days



Common Compliance Mistakes

- Skipping pre-adverse step
- Not waiting long enough
- Missing documentation
- State law conflicts

Best Practices

- Use automated workflows – RSI Client Portal
- Track timelines – RSI Client Portal
- Train HR teams
- State & Local Considerations
 - Ban-the-box laws
 - Additional notice requirements
 - Longer waiting periods in some states
- Partner with compliant screening provider like RSI

Penalties for Non-Compliance

- Fines and lawsuits
 - The FTC routinely adjusts its maximum civil penalty for knowing violations, with caps reaching as high as \$53,088 per violation.
- Class action risk
- Reputational damage

Reminders – Fair Chance Hiring Laws

- Be mindful of your State or City Fair Chance Hiring Laws
 - Fair chance hiring laws (often called "Ban the Box") delay when employers can ask about an applicant's criminal history.
 - Cannot order a Consumer Report until AFTER a conditional offer
 - Some states have Individualized Assessment obligations: Before rejecting an applicant, an employer must assess job-relatedness and give an applicant an opportunity to correct errors in a background check.
- Recent changes
 - Philadelphia – Jan 2026
 - Washington State – July 2026



Key Takeaways



- FCRA requires the Adverse Action procedure when using third-party consumer reporting agency (RSI) for background screening reports and the report influences the decision
- Adverse Action is any negative employment decision based on a background report
- Adverse Action is a 2 Step process with a 5-day waiting period in most states
- Consumer has the right to dispute the report
- RSI will handle all disputes and notify the client
- RSI Client Portal has an automated workflow to track the process. Adverse Action letters can be customized.
- Penalties for non-compliance



Thank you

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