

FAIR CREDIT REPORTING ACT (FCRA) REQUIREMENTS

Pre-Adverse Action

The FCRA requirements under Sec. 604(b)(3)(A) states, "in using a consumer report for employment purposes, **before taking any adverse action** based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates –

- (i) a copy of the report; and
- (ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3)".

Adverse Action

Sec. 615(a) Duties of users **taking adverse actions** on the basis of information contained in consumer reports states, "If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall,

- (1) provide oral, written, or electronic notice of the adverse action to the consumer;
- (2) provide to the consumer orally, in writing, or electronically
 - (A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and
 - (B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and
- (3) provide to the consumer an oral, written, or electronic notice of the consumer's right
 - (A) to obtain, under Sec. 612 [15 U.S.C. 1681j], a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and
 - (B) to dispute, under Sec. 611 [15 U.S.C. 1681i], with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency".

ADVERSE ACTIONS STEPS

Sample Hiring Department Responsibilities

- When the HR manager agrees there is a discrepancy, the HR rep will begin adverse action.
- The HR rep will send a preliminary letter to the applicant notifying them that you are considering making an adverse employment decision.

Pre-Adverse Action Steps

1. **Distribute a Preliminary Adverse Action Letter (electronically, verbally or in writing)**
 2. **Include a copy of the consumer report**
 3. **Include a copy of "A Summary of Your Rights Under the FCRA"**
- If or when the candidate responds to refute the finds in the report, the HR rep will review the information with the HR manager to make a decision. Include Verified, HR department, Legal, etc., as necessary.
 - If or when candidate's attempt to refute the results is unsuccessful or the candidate does not respond to the preliminary letter within 5 business days, the HR rep will send a letter to the applicant notifying them the employment offer has been withdrawn.

Adverse Action Steps

1. **Send Adverse Action Letter**

- When the candidate is a current employee and their attempt to refute the results is unsuccessful or the candidate does not respond to the preliminary letter within 5 business days, their employment will be terminated.

Note: By law Verified Credentials, Inc. must provide the candidate and employer with corrected copies of the consumer report, if applicable.