

Taking Adverse Action:

What Employers Must Know



Following adverse action procedures is the responsibility of the employer; however **ARS will manage the notification process** on behalf of our clients.



FACTS for Adverse Action

As an employer you may legally use consumer/background screening reports when hiring new employees and when evaluating employees for reassignment, promotion or retention. When using these reports however, you must comply with the Federal Credit Reporting Act (FCRA).

What is a consumer report?

A consumer report contains information about your background and credit character, lifestyle and general reputation. In order to be covered by the FCRA, a report must be prepared by a consumer reporting agency (CRA) a business that assembles such reports for other organizations.

Should you decide that information contained in the report provided by ARS, that you cannot hire, retain, promote or re-assign the individual, you must follow an Adverse Action procedure. This procedure is designed to protect the privacy of the consumer and to ensure that the information contained in the report is accurate.

Adverse Action Procedures

Prior to taking adverse action you must give the individual a pre-adverse action

disclosure, a copy of the consumer report, and a Summary of Rights Under the Federal Credit Reporting Act- a document prescribed by the Federal Trade Commission (FTC). ARS furnishes this document to its clients.

The Pre-Adverse Action disclosure will contain the following information on our company.

Our name, address and phone number

A statement that the individual must contact ARS directly in order to dispute any information contained in the report.

Should the individual decide to dispute any information contained in the report, ARS will open an investigation and research the information disputed by the individual. While the investigation is pending, which generally takes 3-4 days; you must keep the position open for a reasonable amount of time. Upon completion of our investigation a final consumer report will be supplied to both our client and the individual. If your decision is not to hire, promote, retain or reassign the individual, a Final Adverse Action notification must be given.



FACTS for Adverse Action

Final Adverse Action

After you have taken adverse action you must provide the Notice of Adverse Action, orally, in writing, or electronically. This final notification includes:

- Our company name, address and phone number.
- A statement that ARS did not have any decision in the adverse action and cannot provide specific reasons for it.
- A notice of the individual's right to dispute the accuracy or completeness of the consumer report, and the individual's right to obtain an additional free copy within 60 days.

Upon completing these steps, you are no longer legally required to maintain the open position and may then pursue another candidate.



FACTS for Adverse Action

Sample **PRE-ADVERSE ACTION NOTICE**

Important disclaimer: The letter available on this page is an example of an FCRA compliant disclosure. Please review and modify as necessary to fit your particular situation, and to comply with the laws of your state.

CONSUMER DISCLOSURE

CONFIDENTIAL TO BE OPENED BY ADDRESSEE ONLY
APPLICANT NAME
11111 MAIN ST
WALNUT CREEK CA, 94598

We are writing to inform you that in evaluating your application for employment we have received the enclosed Consumer Report. This notification is provided because we may make an adverse decision that may be based, in whole or part, on this report. We are hereby informing you of certain information pursuant to the Fair Credit Reporting Act.

The report was procured pursuant to an authorization signed by you at the time of application. A summary of your rights as a consumer is enclosed. If you have any questions regarding this report or believe that it may contain incorrect information, you may contact them and they will respond to your inquiry. Their mailing address and phone number are listed below:

Advanced Research Systems (ARS)

1867 Ygnacio Valley Rd. #129
Walnut Creek, CA 94598
Phone: 888-239-3040
Fax: 866-420-4962

Advanced Research Systems only provided us the Consumer Report and plays no part in the decision to take any action on your employment application. Advanced Research Systems is unable to provide you with specific reasons for any employment related decisions to be made.

Enc.
Consumer Rights Notification
Consumer Report



FACTS for Adverse Action

Sample ADVERSE ACTION NOTICE

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CONSUMER DISCLOSURE

CONFIDENTIAL TO BE OPENED BY ADDRESSEE ONLY

APPLICANT NAME
11111 MAIN ST
WALNUT CREEK CA, 94598

Date

Dear Applicant:

This letter is to inform you that an offer of employment will not be made at this time. This decision was based in whole or part, on the information provided us in a Consumer Report or Investigative Consumer Report.

The report was prepared pursuant to an authorization signed by you at the time of application. Subsequently you also received a copy of your Consumer Report and a Summary of your rights under the Fair Credit Reporting Act. The Consumer Report was used only for employment purposes and prepared for us by a Consumer-Reporting Agency. Their mailing address and phone number are listed below:

Advanced Research Systems (ARS)

1867 Ygnacio Valley Rd. #129
Walnut Creek, CA 94598
Ph: 888-239-3040
Fax: 866-420-4962

Advanced Research Systems plays no part in the decision to take any action on your employment application and is unable to provide you with specific reason (s) for not extending an offer of employment. You may, upon providing proper identification, request another free copy of the report and may dispute with the consumer reporting agency the completeness or accuracy of any information in the report within 60 days of receipt of this notice with Advanced Research Systems.

