



Adverse Action

Adverse Action – What is it?

- The Adverse Action procedure is required by the Fair Credit Reporting Act (FCRA) any time you intend to take adverse action against an applicant or employee based in whole or in part on a consumer report (background check).
- Adverse Action may include actions such as denying a job offer, terminating an employee, or denying a promotion.

Adverse Action – Overview

1. Provide the applicant a pre-adverse action notice, which also includes a copy of the report and a summary of the consumers rights under the FCRA.
2. Allow the applicant a reasonable amount of time to respond by either disputing information in the report, or by providing information that clarifies or mitigates the information in the report. (No specific waiting period is addressed in the law, but the courts have accepted 5 days as reasonable.)
3. If, after considering the information provided by the candidate, you decide to move forward with the adverse action, a second notice is required (adverse action notice).

Adverse Action – How To

Adverse Action notices are located in the Disclosures and Forms section of any completed report. (Note: Access to 'Disclosures and Forms' is a user permission, so it can be disabled for specific users.)

The screenshot displays a software interface with the following components:

- Search Results:** A table with columns 'Search' and 'Status'. It contains three rows: 'Report Summary', 'KLEEN, JOE' (with status 'Pending'), and 'County Criminal Records Search'.
- Attachments:** A section showing '- No Attachments -'.
- Disclosures and Forms:** A section with a dropdown menu. The dropdown is open, showing options: '--Select Disclosure or Form--', 'Adverse Action (Denial)', 'Adverse Action (Withdrawal)', 'Consumer Copy', and 'Pre-Adverse Action'.
- Client Notes:** A section with an upward arrow icon.

Adverse Action – How To

Available Notices:

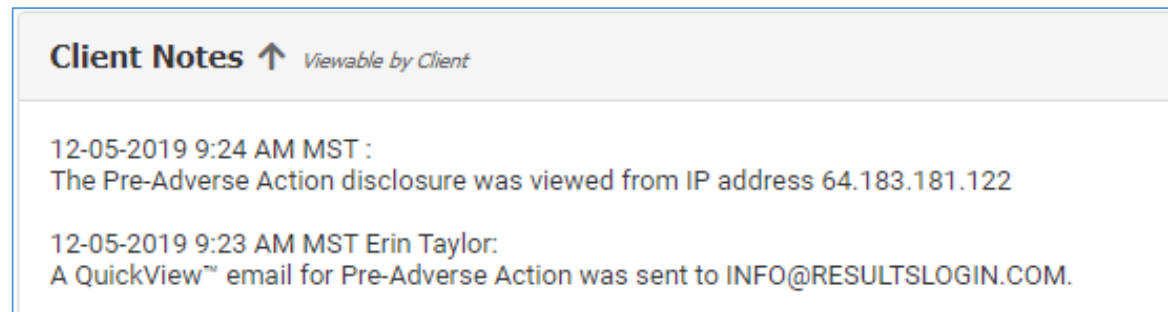
- **Pre-Adverse Action**
- **Adverse Action (Withdrawal)** – If you have already extended an offer to the candidate
- **Adverse Action (Denial)** – If you have not extended an offer to the candidate
- **Consumer Copy** – If the applicant/employee simply wants a copy of their consumer report (no Adverse Action involved)

The notices must contain specific information and language, which we have incorporated into our standard notices. Clients may use the standard versions or provide us with custom versions that can be programmed specifically for your account.

Adverse Action – How To

To send a notice, choose the appropriate notice from the Disclosures and Forms drop-down box. Click the 'Email' button to email the notice to the applicant, or click 'Edit' to allow you to view or print the notice.

Emailed notices must be validated by the applicant before they are viewed. (The applicant must provide certain information to verify who they are before the notice is viewable.) Once an applicant views a notice, you will see a note in the 'Client Notes' section of the completed report at the bottom of the screen:



Similarly, if a notice is printed by a user, this will also be noted in 'Client Notes'.

Adverse Action – How To

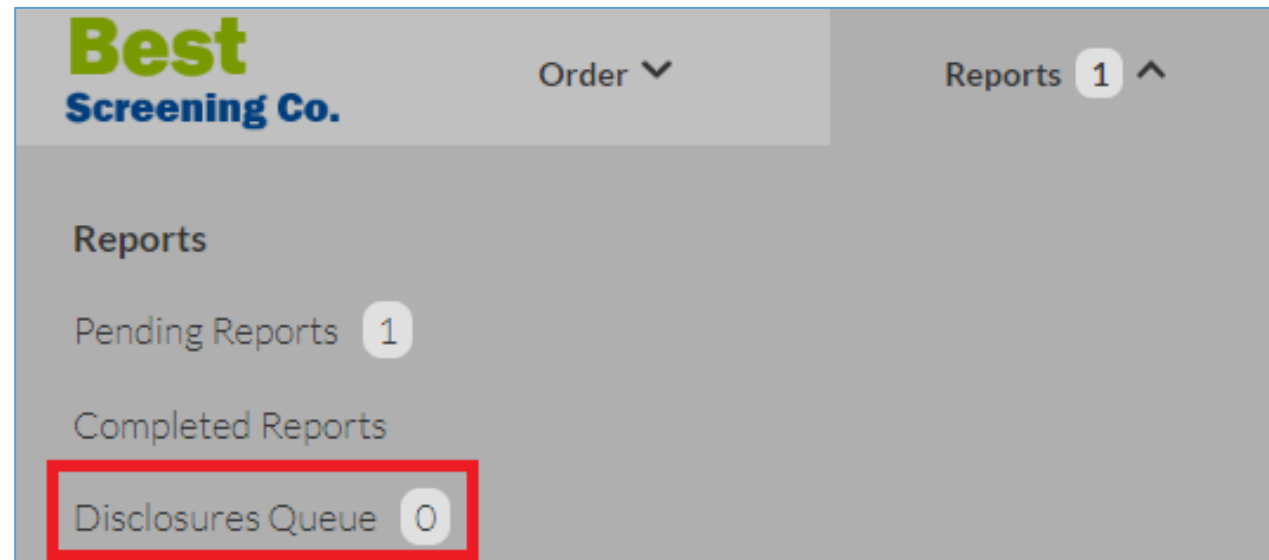
Five business days after sending the first notice (pre-adverse action notice), the requester of the background check will be reminded via email that they may need to send the second notice (adverse action notice). At that time, if they still intend to take the adverse action, they may opt to send the second notice. If, instead, they have decided to hire the applicant (or otherwise NOT take the adverse action), this email reminder may be ignored and the second notice is not sent.

Notes:

- Email reminders by default are sent to the user who requested the original report. Alternately, notices can be sent to specific users by request.
- Email reminders to send the second notice are set to 5 business days by default; however this value can be changed by request.

Adverse Action – How To

If an applicant does NOT view a notice successfully, they will fall into the Disclosure Queue (under the 'Reports' menu):



The number in the bubble next to 'Disclosure Queue' tells you how many applicants are in the queue.


Adverse Action – How To

A notice may fall into the Disclosures Queue for multiple reasons:

- Invalid email address
- Email undeliverable
- Applicant doesn't open or see the email
- Applicant declines to view the notice online and requests a mailed copy instead

Adverse Action – How To

To resolve, you may take the following actions:

- Correct the email address  and resend
- Inform the applicant to expect the notice and resend (you may tell them it will come from automation@instascreen.com)
- Print the notice and mail it
- You may also delete the notice from the queue if it is no longer required for some reason