



background check

BLUEPRINT

step by step guide

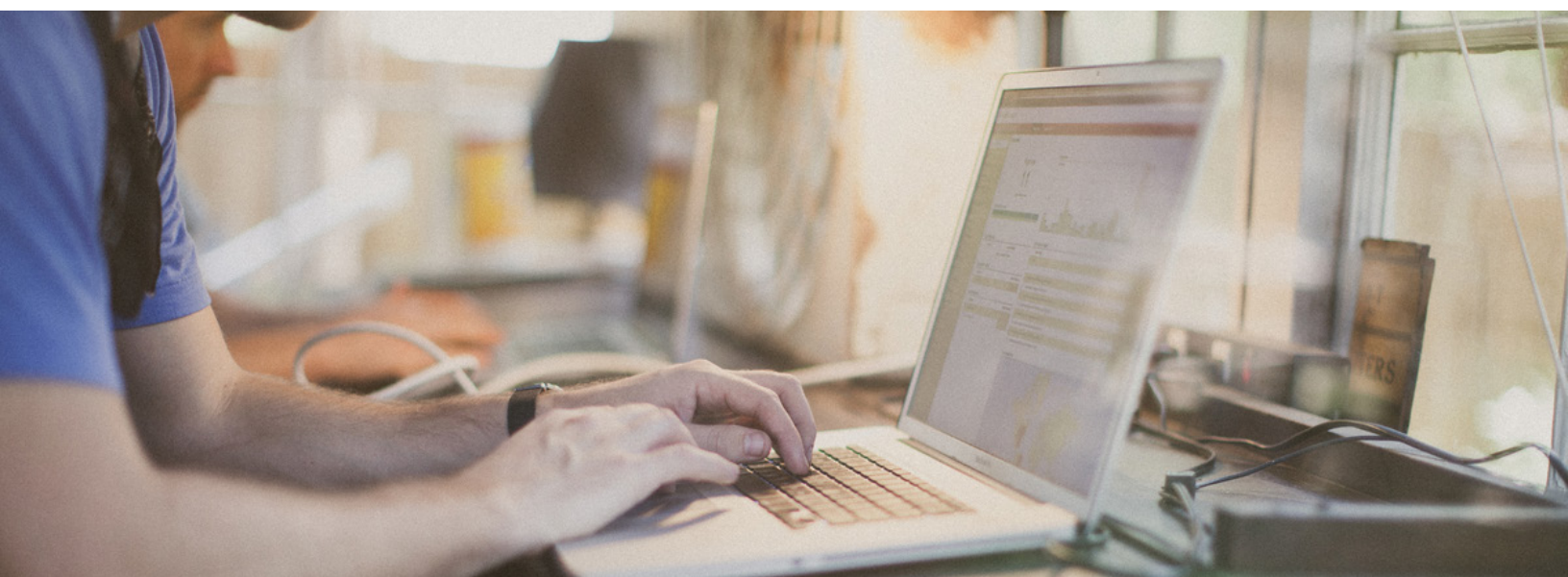
What you need to know

When making personnel decisions including hiring, retention, promotion, and reassignment, employers and organizations sometimes want to consider the backgrounds of volunteers and employees.

For example, some organizations might try to find out about the person's criminal record, work history, education, or financial history. Except for certain restrictions related to medical and genetic information it's not illegal to ask questions about a volunteer's or an employee's background, or to require a background check.

However, any time you use a volunteer's or employee's background information to make an employment decision, regardless of how you got the information, you must comply with federal laws that protect volunteers and employees from discrimination. That includes discrimination based on race, color, national origin, sex, or religion; disability; genetic information (including family medical history); and age (40 or older).

These laws are enforced by the Equal Employment Opportunity Commission (EEOC).



In addition, when you run background checks through a company that is the business of compiling background information, like Protect My Ministry, you must comply with the Fair Credit Reporting Act (FCRA). The Federal Trade Commission (FTC) enforces the FCRA. This publication explains how to comply with both the federal nondiscrimination laws and the FCRA. It's also a good idea to review the laws of your state and municipality regarding background reports or information because some states and municipalities regulate the use of that information for employment purposes.

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Step 1

Create a consistent policy

In all cases, make sure that you're treating everyone equally. It's illegal to check the background of volunteers and employees when that decision is based on a person's race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age (40 or older). For example, asking only people of a certain race about their financial histories or criminal records is evidence of discrimination.

Except in rare circumstances, don't try to get a volunteer's or an employee's genetic information, which includes family medical history. Even if you have that information, don't use it to make an employment decision. (For more information about this law, see the EEOC's publications explaining the Genetic Information Nondiscrimination Act, or GINA.)



Don't ask any medical questions before a conditional job offer has been made. If the person has already started the job, don't ask medical questions unless you have objective evidence that he or she is unable to do the job or poses a safety risk because of a medical condition.

Be sure your policy also addresses re-screening. Best practice is to rescreen annually, but many churches choose to re-screen volunteers every 2 to 3 years.

Step 2

Know your obligations and the rights of your employees/volunteers

If you get background information (for example, a credit or criminal background report) from a company like Protect My Ministry that is in the business of compiling background information, there are additional procedures the FCRA requires beforehand:

- Tell the volunteer or employee you might use the information for decisions about his or her employment. This notice must be in writing and in a stand-alone format.
- The notice can't be in an employment application. You can include some minor additional information in the notice (like a brief description of the nature of consumer reports), but only if it doesn't confuse or detract from the notice.
- If you are asking a company to provide an "investigative report" – a report based on personal interviews concerning a person's character, general reputation, personal characteristics, and lifestyle – you must also tell the volunteer or employee of his or her right to a description of the nature and scope of the investigation.
- Get the volunteer's or employee's written permission to do the background check. This can be part of the document you use to notify the person that you will get the report. If you want the authorization to allow you to get background reports throughout the person's employment, make sure you say so clearly and conspicuously.

[PLEASE SEE EXHIBIT A- Notice of Consent & Authorization](#) for a sample document of the notice listed above.

In addition to the notice above, some states have additional requirements when this notice is provided.

[PLEASE SEE EXHIBIT B- State Law Notices & Disclosure](#) for a sample document of the different states and their requirements.

Step 2

Know your obligations and the rights of your employees/volunteers

Once you have obtained proper consent and authorization you then need to:

- Certify to the company from which you are getting the report that you:

Notified the volunteer and got their permission to get a background report;

Complied with all of the FCRA requirements; and

Won't discriminate against the volunteer or employee, or otherwise misuse the information in violation of federal or state equal opportunity laws or regulations.

(PLEASE NOTE: Protect My Ministry's proprietary background check ordering software already has this feature built into it, so that clients are in compliance with this part of the FCRA.)

Determine your standard screening requirement for background report. All organizations should be screening (at a minimum):

- National Criminal Database Search
- National Sex Offender Registry Search
- SSN Verification
- Address History Trace

Please keep in mind that not all states report all criminal information to any "National" databases. Make sure you are conducting additional county or statewide court searches in areas where database information is limited or non-existent or criminal records can/will be missed.

I found a disqualifying record on a volunteer. Now what?

When taking an adverse action (for example, not hiring a volunteer or firing an employee) based on background information obtained through a company in the business of compiling background information, the FCRA has additional requirements:

Step 3

Getting started

- **Before you take an adverse employment action, you must give the volunteer or employee:**

- A notice that includes a copy of the consumer report you relied on to make your decision; and

- A copy of “A Summary of Your Rights Under the Fair Credit Reporting Act,” which you should have received from the company that sold you the report.

- **By giving the person the notice in advance, the person has an opportunity to review the report and explain any negative information.**

[PLEASE SEE EXHIBIT D1 - Pre-Adverse Action Disclosure](#) – for a sample document of this notice and letter

[PLEASE SEE EXHIBIT C1](#) AND [EXHIBIT C2 \(SPANISH\)](#) - A Summary of Your Rights Under the Fair Credit Reporting Act - English and Spanish versions – for a sample of this document

- **After you take an adverse action, you must tell the volunteer or employee (orally, in writing, or electronically):**

- That he or she was rejected because of information in the report;
- The name, address, and phone number of the company that sold the report;
- That the company selling the report didn't make the hiring decision, and can't give specific reasons for it; and
- That he or she has a right to dispute the accuracy or completeness of the report, and to get an additional free report from the reporting company within 60 days.

[PLEASE SEE EXHIBIT D2 - ADVERSE ACTION NOTICE](#) - FOR A SAMPLE DOCUMENT OF THIS NOTICE AND LETTER

Disposing of Background Information

Any personnel or employment records you make or keep (including all application forms, regardless of whether the volunteer was hired, and other records related to hiring) must be preserved for one year after the records were made, or after a personnel action was taken, whichever comes later. If the volunteer or employee files a charge of discrimination, you must maintain the records until the case is concluded.



Once you've satisfied all applicable recordkeeping requirements, you may dispose of any background reports you received. However, the law requires that you dispose of the reports – and any information gathered from them – securely. That can include burning, pulverizing, or shredding paper documents and disposing of electronic information so that it can't be read or reconstructed. Even though the FCRA is silent on the length of time background reports and authorization consent forms should be kept, industry standard is a period of up to five years in most cases. This allows for the organization to show that proper background checks for any future potential liability issues that arise, as well as, to run future background reports without needing to get the volunteer's or employee's written authorization again.