

Background Checks

**Tips For Job Applicants
and Employees**



Some employers check into your background before deciding whether to hire you or keep you on the job. When they do a background check, you have legal rights under federal law. Depending on where you live, your city or state may offer additional protections. It's important to know whom to contact if you think an employer has broken the law related to background checks. Check with someone who knows the laws where you live.



Questions About Your Background

An employer may ask you for all sorts of information about your background, especially during the hiring process. For example, some employers may ask about your employment history, your education, your criminal record, your financial history, your medical history, or your use of online social media.

It's legal for employers to ask questions about your background or to require a background check — with certain exceptions. They're not permitted to ask for your medical information until they offer you a job, and they're not allowed to ask for your genetic information, including your family medical history, except in limited circumstances.

When an employer asks about your background, they must treat you the same as anyone else, regardless of your race, national origin, color, sex, religion,

disability, genetic information (including family medical history), or age, if you're 40 or older. An employer isn't allowed to ask for extra background information because you are, say, of a certain race or ethnicity.

If an employer treats you differently because of your race, national origin, color, sex, religion, disability, genetic information (including family medical history), or older age, or asks you inappropriate questions about your medical status, medical history, or family medical history, contact the Equal Employment Opportunity Commission (EEOC) at [eeoc.gov](https://www.eeoc.gov) or at 1-800-669-4000.

Use of Background Reports

Some employers try to find out about your background by hiring someone to do a “background report” on you. Among the most common are criminal background reports and credit reports. But special rules apply when an employer gets a background report about you from a company in the business of compiling background information.

1. Before getting the report, the employer must tell you in a stand-alone document that they might use the information to make a decision related to your employment, and must ask for your written permission. You don't have to give your

permission, but if you're applying for a job and you don't give your permission, the employer may reject your application. If an employer gets a background report on you without your permission, contact the FTC at [ftc.gov](https://www.ftc.gov) or at 1-877-FTC-HELP.

2. If the employer thinks they might not hire, keep, or promote you because of something in the report, they must give you a copy of the report and a "Summary of Rights" that tells you how to contact the company that provided the report. That's because background reports sometimes have mistakes. If you see a mistake in your background report, ask the background reporting company to fix it, and to send a copy of the corrected report to the employer. Tell the employer about the mistake, too.

Before you apply for a job, it's a good idea to order a free copy of your credit report. That way, you can fix any mistakes before an employer sees it. To get your free credit report, visit AnnualCreditReport.com or call 1-877-322-8228. You don't have to buy any products they offer, and you don't have to pay to get mistakes corrected.



If the Employer Finds Something Negative in Your Background

If your background report has some negative information, be prepared to explain it — and the reason it shouldn't affect your ability to do the job. Here is a description of your rights, depending on what type of negative information the employer finds:

Criminal History or Other Public Records:

If you don't get hired or promoted because of information in your criminal history or other public records, the employer must tell you orally, in writing, or electronically:

- the name, address, and phone number of the company that supplied the criminal history or public records report;
- that the company that provided the information didn't make the decision to take the adverse action and can't give you specific reasons for it; and
- that you have the right to dispute the accuracy and completeness of any information in the report, and to get an additional free report from the company that supplied it, if you ask for it within 60 days of the employer's decision not to hire or retain you.

The company that provided the employer with negative information from a criminal history or other public record has certain obligations to make sure the information is accurate.

Some employers might say not to apply if you have a criminal record. That could be discrimination. If that happens to you, contact the EEOC at eeoc.gov or at 1-800-669-4000. Find information on:

- arrest and conviction records in employment decisions (eeoc.gov/laws/guidance/qa_arrest_conviction.cfm)
- arrest and conviction records as an automatic bar to all employment (csgjusticecenter.org/wp-content/uploads/2012/11/Reentry_Council_Mythbuster_Employment.pdf)

Credit Report & Financial Information:

If an employer decides not to hire, keep, or promote you based on financial information in a background report, it must tell you — orally, in writing, or electronically. Specifically, the employer must:

- give you the name, address, and phone number of the company that supplied the credit report or background information;
- give you a statement that the company that supplied the information didn't make the decision to take the adverse action and can't give you any specific reasons for it; and
- give you a notice of your right to dispute the accuracy or completeness of any information in your report and to get an additional free report from the company that supplied the credit or other background information if you ask for it within 60 days.

Race, National Origin, Color, Sex, Religion, Disability, Genetic Information, Age:

Sometimes, it's legal for an employer not to hire you or keep you on because of information in your background, and sometimes, it isn't. For example, it's illegal when the employer has different background requirements depending on your race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age, if you're 40 or older. It's also illegal for an employer to reject applicants of one ethnicity with criminal records for a job, but not to reject other applicants with the same criminal records.

Even if the employer treats you the same as everyone else, using background information still can be illegal discrimination. For example, employers shouldn't use a policy or practice that excludes people with certain criminal records if it significantly disadvantages individuals of a particular race, national origin, or another protected characteristic, and doesn't accurately predict who will be a responsible, reliable, or safe employee. In legal terms, the policy or practice has a "disparate impact" and is not "job related and consistent with business necessity."

If you think an employer discriminated against you based on information in your background report, contact the EEOC at eeoc.gov or at 1-800-669-4000.

Medical Condition:

If the employer makes a decision based on information about a medical condition, you can ask for a chance to show that you still can do the job. Find specific information on:

- pre-employment medical inquiries (eeoc.gov/policy/docs/preemp.html)
- medical inquiries during employment (eeoc.gov/policy/docs/qanda-inquiries.html)
- genetic inquiries, including inquiries about family medical history (eeoc.gov/eeoc/newsroom/wysk/gina_nondiscrimination_act.cfm)

Where to Go For Help

The FTC enforces the Fair Credit Reporting Act (FCRA), a federal law that regulates background reports for employment. The EEOC enforces federal laws against employment discrimination.

FTC

If an employer got your background report without asking your permission, or rejected you without sending you the required notices, contact the FTC at ftc.gov or at 1-877-FTC-HELP (1-877-382-4357) or 1-866-653-4261 (TTY).

Why report it to the FTC? Because the FCRA allows the FTC, other federal agencies, and states to sue employers who don't comply with the law's provisions. The FCRA also allows people to sue employers in state or federal court for certain violations.

To find out how to order free copies of your credit report and how to dispute errors, visit [ftc.gov/FreeReports](https://www.ftc.gov/FreeReports).

EEOC

If you think that a background check was discriminatory, you can contact the EEOC at [eeoc.gov](https://www.eeoc.gov), or at 1-800-669-4000 or 1-800-669-6820 (TTY). The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information. The EEOC investigates, conciliates, and mediates charges of employment discrimination, and also files lawsuits in the public interest.



Federal Trade Commission
consumer.ftc.gov
September 2018