

THE
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CFPB Issues New Background Check Summary of Rights Form With Imminent Effective Date

Friday, September 21, 2018

On September 12, 2018, the Consumer Financial Protection Bureau (CFPB) issued [an interim final rule](#) updating its [A Summary of Your Rights Under the Fair Credit Reporting Act form](#), (“Summary of Rights”) which is required to be given by employers to applicants and employees at various points in the background check process. The effective date for the updated Summary of Rights is **Friday, September 21, 2018**.

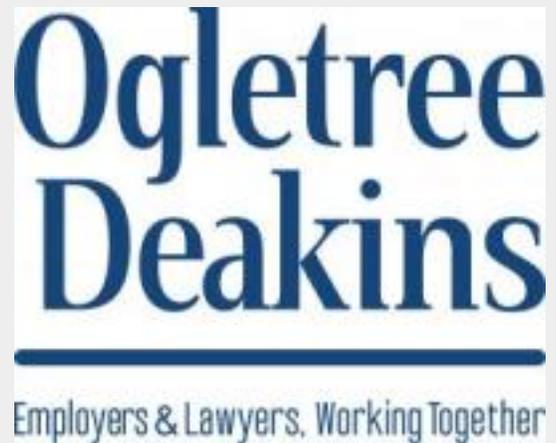
The Summary of Rights must always be included as an attachment/enclosure with the pre-adverse action letter. Additionally, employers should provide the Summary of Rights with, but separate and apart from, the federal background check disclosure if an employer is conducting an *investigative* background check. Contrary to the practices of some background check companies, and what many employers think, the Summary of Rights is *not* a required inclusion with the background check disclosures and authorization forms unless the employer is obtaining an *investigative* background check. (An *investigative* background check occurs when a background check company conducts personal interviews with information sources, such as references and former employer representatives, who comment on an individual’s performance. Mere confirmation of prior employment (e.g., providing dates of employment, job titles, etc.) is not enough to qualify as an *investigative* background check.)

Note that although the CFPB technically issued an interim final rule on which public feedback and comments will be accepted until Monday, November 19, 2018, the effective date for the new summary is well before the public comments deadline.

For a redline document showing the differences between the old and the new summary form, please click [here](#).

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