



Division of Financial Practices

~
Clarke W. Brinckerhoff
Attorney

**UNITED STATE OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580**

October 1, 1999

Dear Ms. Fischel:

This responds to your letter dated September 16, 1999. You ask for a written statement of our "position on the issue of whether an employer can take adverse action against an employee, up to and including termination, or refuse to hire an applicant, if the individual refuses to give an employer permission to obtain a consumer report or investigative consumer report as defined by the Fair Credit Reporting Act (FCRA)."

As we read the FCRA, it is silent on the issue you posed. It thus does not prohibit an employer from taking adverse action against an employee or applicant who refuses to authorize the employer to procure a consumer report. By the same token, of course, it does not specifically authorize such action.

This opinion letter expresses the views of the staff, is not binding on the Commission, and takes no position on any state or other law that may bear on adverse action by employers against applicants or employees who refuse to authorize consumer reports. Employers may wish to consult their counsel to ascertain whether other laws in the jurisdictions in which they do business or other federal laws, which may deal more extensively than the FCRA with employment activities, may provide more precise guidance in that situation.

I hope this response is of assistance to you and your members.

Sincerely yours,

Clarke W. Brinckerhoff