



RED BRICK
— WORKFORCE SOLUTIONS —
Hire with Confidence.

FCRA COMPLIANCE CHECKLIST

FOR EMPLOYERS

A practical self-assessment for employment background screening

Use this checklist to review the core federal process when your organization obtains employment consumer reports from a consumer reporting agency (CRA).

HOW TO USE IT

Work through the checklist with the people who own recruiting, HR operations, compliance and background screening. A checked box should mean you can identify the policy, form, workflow or control that supports the answer - not simply that the step is familiar.

IMPORTANT

This checklist is educational, not legal advice, and is not a certification of FCRA compliance. Federal requirements are only part of the screening landscape. State and local laws may impose additional restrictions, notices, timing requirements or fair-chance obligations. Employers should consult qualified legal counsel regarding their specific program.

ORGANIZATION

REVIEWED BY

DATE

01 Before You Order a Background Report

Disclosure, authorization, permissible purpose and CRA certifications

- ☐ We obtain employment background reports only for a lawful employment purpose.
- ☐ We provide the applicant or employee a clear and conspicuous written disclosure that a consumer report may be obtained for employment purposes.
- ☐ Our federal FCRA disclosure is presented in a stand-alone format and is not embedded in the employment application.
- ☐ We have reviewed the disclosure for unnecessary or distracting language that could detract from the required notice.
- ☐ We obtain the applicant's or employee's written authorization before ordering the consumer report.
- ☐ If our authorization is intended to cover reports during employment, that continuing authorization is stated clearly and conspicuously.
- ☐ If we request an investigative consumer report, our process addresses the additional FCRA notice requirements that may apply.
- ☐ We make the required certifications to our CRA, including that required notice and authorization steps have been completed.
- ☐ We review state and local requirements before using a form or workflow in a new hiring jurisdiction.

02 Ordering & Reviewing the Report

Consistency, job relevance, access and decision controls

- ☐ We use documented screening packages or criteria tied to job responsibilities and business needs.
- ☐ Similarly situated candidates are screened under consistent standards.
- ☐ Access to consumer reports is limited to people with a legitimate business need.
- ☐ Recruiters and hiring managers know who is authorized to review or adjudicate potentially disqualifying information.
- ☐ Our process distinguishes between the information in a report and the employer's ultimate employment decision.
- ☐ When criminal history is considered, our decision process addresses job relevance and is applied consistently.
- ☐ We have a defined escalation process for unclear, potentially inaccurate or disputed information.
- ☐ We check whether state or local law limits the type of information we may consider or when we may consider it.

03 Before Taking Adverse Action

Give the individual the required information before the decision becomes final

- ☐ When adverse action may be based in whole or in part on a consumer report, we send a pre-adverse action notice before making the final decision.
- ☐ The pre-adverse action communication includes a copy of the consumer report relied upon.
- ☐ The individual receives the current 'A Summary of Your Rights Under the Fair Credit Reporting Act.'
- ☐ Our process gives the individual an opportunity to review the report and raise questions or dispute potentially inaccurate information before final adverse action.
- ☐ We pause or route the decision appropriately when a candidate disputes information with the CRA.
- ☐ We determine whether applicable state or local law requires additional notices, individualized assessment, specific content or a particular waiting period.

Federal note:

The federal FCRA requires the report and Summary of Rights to be provided before adverse action so the individual has an opportunity to review the information. The FTC guidance does not prescribe one universal federal waiting period; state/local law and case-specific requirements may add timing obligations.

04 After Taking Final Adverse Action

Complete the required federal notice and preserve the decision trail

- ☐ If final adverse action is taken based in whole or in part on the report, we provide an adverse-action notice.
- ☐ The notice states that the adverse action was based on information in the consumer report.
- ☐ The notice provides the CRA's name, address and telephone number.
- ☐ The notice explains that the CRA did not make the employment decision and cannot provide the specific reasons for it.
- ☐ The notice explains the individual's right to dispute the accuracy or completeness of information in the report.
- ☐ The notice explains the individual's right to obtain an additional free report from the CRA within 60 days.
- ☐ We retain appropriate documentation showing that the required pre-adverse and final adverse-action steps were completed.
- ☐ We confirm whether state or local law requires additional adverse-action content or procedures.

05 Records, Security & Program Maintenance

Retention, disposal, training and periodic review

- ☐ We maintain employment and background-screening records for the periods required by applicable law.
- ☐ We preserve relevant records longer when a charge, claim, investigation or litigation hold requires it.
- ☐ Consumer reports and information derived from them are stored securely with access controls appropriate to their sensitivity.
- ☐ When records may lawfully be destroyed, our disposal process makes consumer report information unreadable or unreconstructable.
- ☐ Our recruiters, HR team and hiring managers receive training appropriate to their role in the screening process.
- ☐ We periodically review our disclosure, authorization, pre-adverse and adverse-action materials.
- ☐ We periodically review screening packages, decision criteria and workflows for continued job relevance and consistency.
- ☐ We monitor changes in the states and localities where we hire.
- ☐ We periodically review our CRA/provider's service, compliance resources, dispute process and workflow support.

SELF-ASSESSMENT

ALL / NEARLY ALL

Your core federal workflow appears well documented. Confirm jurisdiction-specific requirements and keep the process current.

1-3 UNCERTAIN

Identify the policy, form or workflow behind each uncertain item and validate it.

4+ UNCERTAIN

A broader review of your screening program may be worthwhile.

ANY 'NO' ON ADVERSE ACTION

Prioritize review of that workflow before the next decision involving a consumer report.

NEED A SECOND SET OF EYES?

Red Brick Workforce Solutions can help review your screening process, packages, workflow and provider performance.

Hire with Confidence. | redbrickworkforce.com

PRIMARY FEDERAL REFERENCES

- Federal Trade Commission - Background Checks: What Employers Need to Know
- Federal Trade Commission - Using Consumer Reports: What Employers Need to Know
- Federal Trade Commission - Disposing of Consumer Report Information? Rule Tells How
- U.S. Equal Employment Opportunity Commission - Background Checks / Criminal Records
- Consumer Financial Protection Bureau - A Summary of Your Rights Under the Fair Credit Reporting Act

Educational disclaimer: This resource provides general information and is not legal advice. Laws, regulations and agency guidance may change. Additional federal, state, local, industry-specific and contractual requirements may apply.