

PLAY BY THE RULES

HOW TO BE MORE FCRA-COMPLIANT & MITIGATE RISK OF LAWSUITS & PENALTIES.

FCRA LAWSUITS & PENALTIES ARE ON THE UP-TICK

Failure to comply with FCRA requirements for employers can have serious legal and financial consequences.



+2X

the number of FCRA claims since 2009¹



+60%

of FCRA claims were filed the past three years²



\$326 MILLION

paid by employers to settle FCRA lawsuits from 2011 to 2019²

WHAT IS THE FCRA, ANYWAY?

The Fair Credit Reporting Act (FCRA) is a federal law. It regulates how recruiters must handle a consumer's personal information during employment background screenings.

NEVER FEAR.
YOUR FCRA COMPLIANCE GUIDE IS HERE!

JUST REMEMBER

This guide is not a substitute for legal advice. Check with your legal counsel to make sure your FCRA process is completely compliant.

STOP! DON'T START A BACKGROUND CHECK WITHOUT TWO IMPORTANT THINGS.

If you plan to use a background check for employment screening, you must do two things first to meet FCRA requirements.



1. DISCLOSURE

Notify the candidate via a stand-alone document that you're going to use a background check for employment screening



2. AUTHORIZATION

Get a written authorization for the consumer report from the applicant

TIP: Disclosure forms are heavily litigated. Employers can avoid paying hundreds of thousands—if not millions—of dollars by consulting legal counsel to review the disclosure form to ensure it's FCRA-compliant.

DID YOU KNOW?

The Asurint Compliance Department can review your forms and offer educational feedback based on litigation trends. You can also request our packet of sample forms for additional educational information.



IF THE INFORMATION ON THE CONSUMER REPORT RAISES NO ISSUES THAT MAY NEGATIVELY IMPACT HIRING DECISIONS, CONGRATS! YOU'RE ALL DONE.

IF IT DOES, THERE ARE ADDITIONAL FCRA REQUIREMENTS FOR EMPLOYERS.

DON'T PLAN TO HIRE BASED ON BACKGROUND CHECK RESULTS? HERE'S WHAT TO DO.



PRE-ADVERSE ACTION NOTICE

- ☐ Notify an applicant that they may be disqualified due to background check results
- ☐ Include a copy of the background check report
- ☐ Include applicable state notices
- ☐ Include the document, "A Summary of Your Rights Under the Fair Credit Reporting Act" ([English](#), [Spanish](#))



NOTICE OF ADVERSE ACTION

- ☐ Provide a reasonable amount of time for dispute after delivering the pre-adverse action notice
- ☐ Notify the applicant that they're disqualified based on the background check report, and provide:
 - Name, address, and telephone number of the consumer reporting agency
 - That the consumer reporting agency had no part in the hiring decision
 - That the person may request a free copy of a report and may dispute the information with the consumer reporting agency

TIP: Local and state Ban The Box and Fair Chance laws often require additional adverse action requirements. To ensure you're FCRA-compliant, consult with legal counsel concerning the company location, residence of applicant, and location of job position.

3 PITFALLS TO WATCH OUT FOR DURING THE FCRA PROCESS

FCRA-compliant background checks are hard to get right. That's why litigation and financial penalties are rapidly growing. Here are the top challenges that recruiters often face during the FCRA process.

EVER-CHANGING LAWS

New state and county laws are always popping up, making it hard to keep up with the latest FCRA background check rules

HUMAN ERROR

Adverse action is a manually intensive processes with complex rules and risks for mistakes

MULTIPLE LETTER TEMPLATES

Each client typically has a pre-adverse and adverse action template, so it's easy to use the wrong one

RELATED: [50 State Guide: Employment & Hiring Background Screen Laws](#)

MITIGATE RISK WITH EMPLOYMENT SCREENING TOOLS

Challenges during the FCRA process can create stress for recruiters and increase risk of litigation and financial penalties. That's why Asurint created a streamlined background check system with built-in compliance controls.

ASURINT ADVERSE ACTION SYSTEM

PROACTIVE COMPLIANCE MONITORING

to stay on top of changing laws and help you stay more FCRA-compliant

REQUIREMENT PROMPTS

to help remove the guesswork and human errors in manual jurisdiction

LETTER MANAGEMENT

stores individualized pre-adverse and adverse action letters for each client, state or job.

AUTOMATED PROCESSING

automatically sends pre-adverse letters and adverse action letters after designated waiting period

Additional Resources on FCRA-Compliant Background Checks

[How To Ensure FCRA-Compliant Use Of Consumer Reports For Hiring: Part I](#)

[How To Ensure FCRA-Compliant Use Of Consumer Reports For Hiring: Part II](#)

[KISS for Disclosure Forms \(Keep It Simple, Seriously\)](#)

[A Brief Introduction to EEOC, FTP, CFPB, Oversight, Including FCRA](#)

[How Background Checks Contribute To A Culture Of Safety And Respect](#)

[Webinar: Improve Your Hiring Process: Adjudication and Adverse Action Automation](#)