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SCREENING SERVICES • VERIFICATION • DATA

COMPLIANCE

Background Screening in a Highly Regulated Industry

How authorization, privacy, accuracy, and documentation fit into every step of the screening process.

Background screening is governed by the Fair Credit Reporting Act (FCRA), the primary federal law for consumer reports, and is enforced by the Federal Trade Commission and the Consumer Financial Protection Bureau.[1,2] Four principles run through every step of a compliant screening process.

Four principles of compliant screening

Authorization

What the law requires: Reports are provided only for a permissible purpose, and employment screening requires a written disclosure and the candidate's written authorization.[3]

In practice: Disclosures and signed authorizations are collected before any search begins.

Privacy

What the law requires: Access to consumer reports is limited to users with a permissible purpose who certify their compliance.[3]

In practice: Secure portal delivery, limited user access, and identity checks before releasing a file.

Accuracy

What the law requires: Screening companies must follow reasonable procedures to assure maximum possible accuracy, and observe reporting limits.[4,5]

In practice: Matching with multiple identifiers, verifying at the source, and quality review.

Documentation

What the law requires: Users certify their purpose, and specific notices are required when reports are used for adverse decisions.[3,6]

In practice: Records of certifications, authorizations, notices, and dispute handling.

A compliant process protects everyone: the people being screened, the organizations that rely on reports, and the screening company itself.

SOURCES

1 FCRA §621, administrative enforcement (FTC and CFPB), 15 U.S.C. §1681s. www.law.cornell.edu/uscode/text/15/1681s

2 Consumer Financial Protection Bureau, Regulation V (12 CFR Part 1022). www.consumerfinance.gov/rules-policy/regulations/1022/

3 FCRA §604, permissible purposes, disclosure, authorization, and pre-adverse action, 15 U.S.C. §1681b. www.law.cornell.edu/uscode/text/15/1681b

4 FCRA §607(b), reasonable procedures to assure maximum possible accuracy, 15 U.S.C. §1681e. www.law.cornell.edu/uscode/text/15/1681e

5 FCRA §605, requirements relating to information in reports, 15 U.S.C. §1681c. www.law.cornell.edu/uscode/text/15/1681c

6 FCRA §615, requirements on users of consumer reports (adverse action), 15 U.S.C. §1681m. www.law.cornell.edu/uscode/text/15/1681m

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Where each principle applies

01 Request
Permissible purpose certified
Authorization

02 Consent
Disclosure & written authorization
Authorization

03 Search
Identifiers matched; source verified
Accuracy

04 Report
Reporting limits; secure delivery
Privacy

05 Decision
Pre-adverse & adverse action notices
Documentation

06 Dispute
Free reinvestigation & correction
Accuracy

Layers of regulation

FEDERAL	FCRA and Regulation V[1,2] · Title VII and EEOC guidance on criminal records[3,4] · Fair Housing Act[5] · Driver's Privacy Protection Act for driving records[6]
STATE	State consumer reporting laws, which may add disclosures and reporting limits · State privacy and data security laws · Breach notification requirements
LOCAL	City and county fair chance or "ban the box" ordinances that govern when and how criminal history may be considered

Rights built into the process

See your file
Individuals may request the information in their file.[7]

Dispute for free
Inaccurate information must be reinvestigated at no cost.[8]

Notice before action
Candidates receive a copy of the report and a summary of rights before adverse employment action.[9]

SOURCES

1 Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. www.law.cornell.edu/uscode/text/15/1681

2 Consumer Financial Protection Bureau, Regulation V (12 CFR Part 1022). www.consumerfinance.gov/rules-policy/regulations/1022/

3 Title VII of the Civil Rights Act, 42 U.S.C. §2000e-2. www.law.cornell.edu/uscode/text/42/2000e-2

4 U.S. EEOC, guidance on arrest and conviction records in employment decisions. www.eeoc.gov/arrestandconviction

5 Fair Housing Act, 42 U.S.C. §3604. www.law.cornell.edu/uscode/text/42/3604

6 Driver's Privacy Protection Act, 18 U.S.C. §2721. www.law.cornell.edu/uscode/text/18/2721

7 FCRA §609, disclosures to consumers, 15 U.S.C. §1681g. www.law.cornell.edu/uscode/text/15/1681g

8 FCRA §611, procedure in case of disputed accuracy, 15 U.S.C. §1681i. www.law.cornell.edu/uscode/text/15/1681i

9 FCRA §604, permissible purposes, disclosure, authorization, and pre-adverse action, 15 U.S.C. §1681b. www.law.cornell.edu/uscode/text/15/1681b

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