

Background Screening Compliance



Legal compliance in the use of background screening information is critical. Failure to comply with government regulations can lead to potential judgments against employers and screening companies alike. Our background reports comply with all federal and state guidelines. This document will explain the basics of background screening compliance.

USA-FACT

USA-FACT is an Internet-based applicant screening company. Our Background Screening Information is secured by experienced professionals and a global network of skilled researchers who retrieve and report public records and data. Our clients rely on our services as important decision-making tools in creating safe and productive work environments. USA-FACT delivers information using state-of-the-art Internet technologies unique to the screening industry. Our objective is to create a partnership with our clients to develop the most efficient methods of delivering information to service their individual needs.

Partners

TransUnion
Quest Diagnostics
LabCorp
eScreen
Driver Alliant Insurance Services
Knowledge Management Systems

Affiliations

Nat'l Assoc. of Prof. Background Screeners
Society of Human Resources Managers [SHRM]
TransUnion Client Advisory Board
Drug and Alcohol Testing Association [DATIA]

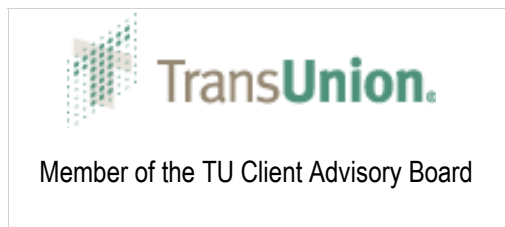


Clientele

USA-FACT is a leading provider of pre-employment screening through effective utilization of three key elements to deliver an end product that is a "best fit" program for the specific needs and expectations of our clients, Customer Service, Technology, and Quality Assurance. USA-FACT has been very effective in screening applicants for a wide array of industries:

Financial
Medical/Healthcare
Distribution Centers
Government Municipalities
Construction
Equipment Rentals

Staffing Agencies
Food Service/Restaurant
Insurance
Security
Transportation
and More!



Quality in background screening is combining the aspects of accuracy, consistency, completeness and timeliness in the development of screening program. At USA-FACT, we understand that our reports are about people and the effect a background screening report can have on a person's life.



Legal Compliance Basics

Legal compliance in the background screening industry is very important. Failure to comply can lead to law suits and potential judgments against employers and background screening companies so it is important to know the legislation governing background screening.

The Federal Fair Credit Reporting Act [FCRA]

The FCRA was enacted to protect the rights of individuals by promoting accuracy, fairness, and privacy of information obtained by Consumer Reporting Agencies (CRA). USA-FACT provides the tools necessary to comply with the FCRA.

The Driver's Privacy Protection Act [DPPA]

The DPPA protects the privacy of personal information assembled by State Department of Motor Vehicles.

State Law Compliance

Navigating the hierarchy of background screening legislation is a complicated process. USA-FACT utilizes the team approach to handling legal compliance in the screening industry utilizing a long list of sources including the Federal Trade Commission to interpret the laws to ensure compliance.

Our Easy 4-Step Compliance Procedure

Step 1: Notice & Disclosure

Applicants must be required to read and sign a Consumer Authorization notifying them that your organization screens applicants before hiring.

Step 2: Authorization

Require your applicants to complete a Consumer Authorization Release granting permission to process their background. This form serves as notification to schools, employers, and other government agencies that your applicant has granted permission to access their records.

Step 3: Summary of Rights

Provide your applicant with a copy of the FCRA Summary of Rights. This document will explain the applicant's recourses of action when disputing information on the background report or what to do if they are a victim of identity theft.

Step 4: Adverse Action

Ensure you are familiar with Adverse Action protocol when denying employment based on a background report. An applicant has the right to dispute the information before you deny employment so a pre-decision communication to the applicant is important in maintaining compliance for your organization.



The Fair Credit Reporting Act

USA-FACT is governed by the Federal Trade Commission and is subject to comply with all of the guidelines set forth in the federal Fair Credit Report Act (FCRA).

Under the parameters of the FCRA, USA-FACT is considered to be a Consumer Reporting Agency and as such can only report information to clients who are conducting background screens for a permissible purpose. For your convenience, we have put together a checklist to ensure that you are complying with the FCRA.

1. Ensure that you are conducting background screens for a permissible purpose, which includes employment purposes, such as hiring and promotions.
2. Obtain written permission from the applicant indicating that the applicant understands that investigative background inquires may be made on them including but not limited to previous employer verifications, education verifications, consumer credit reports, criminal conviction history, driving record, and other types of screening reports. This Consumer Release and Consumer Disclosure cannot be part of your application; these documents must be a separate document that consists solely of the Disclosure and Release of information.
3. If the applicant is hired, the requirements of the FCRA have been met. If the applicant is denied employment due to information uncovered by the report, then the Adverse Action Process must then be applied.

Adverse Action

If an applicant is denied employment based on information received in a consumer report or investigative consumer report, then the employer must notify the applicant within three business days to confirm the information in the report. The first communication of the adverse action can be given orally, in writing or by electronic means. The communication must include the following:

- a. Notification that you may not be offering employment due to information contained in a report;
- b. The name, address and telephone number of the consumer reporting agency that furnished the consumer report;
- c. A statement that the consumer reporting agency did not make the decision to take adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken;
- d. That the consumer may, upon proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report;
- e. A copy of A Summary of Your Rights Under the Fair Credit Reporting Act;
- f. A copy of the background screening report.

Upon a final decision not to hire the applicant, a second notification must be sent to the applicant. This communication must contain the same information as the first notice only changing the fact that the decision not to hire is final. A copy of A Summary of Your Rights Under the Fair Credit Reporting Act is printed on each USA-FACT report. Pre-Adverse and Adverse Action letters can be found on the USA-FACT online system to be used at your convenience.



Resume looked great, interview went well, now it is time to screen the applicant.

So, What Does the Overall Process Look Like?

STEP 1

Applicant reads and signs the Consumer Disclosure notifying them that their potential employer background screens all potential applicants. Employer copies the Disclosure form and provides it to the applicant.

STEP 2

Applicant agrees to allow the potential employer to request a background report by completing the Consumer Authorization form and provides the all important signature authorizing the process.

STEP 3

Employer provides a copy of the applicant's Summary of Rights under the Fair Credit Reporting Act.

STEP 4

Employer can now legally and compliantly order a background report on their applicant.



Resume looked great, interview went well, but there's a red flag on the background report, what do I do now?

And if the candidate's background is unacceptable?

STEP 1

Review background report carefully and ensure that there are no glaring mistakes and that identifying information is present especially on the information that leads to the adverse decision.

STEP 2

Initiate the Pre-Adverse Process. You may contact applicant by phone, email, or mail to inform them of the bad news. It is important to provide them a copy of the report to give them the opportunity to dispute.

STEP 3

After initial contact with the applicant regarding the adverse information discovered on their background report and providing them the opportunity to dispute, if they do not dispute, you may now take adverse action.

STEP 4

USA-FACT highly recommends that organizations that have denied employment to candidates based on background report information keep a log of those applicants for future review.

**STEP
1**

Consumer Disclosure

The first step in the compliance process is to disclose to the applicant that your organization background screens applicants before hiring. Notice that in CA, MN, and OK, there is a check box for applicants to check to get a free copy of their report. It is the responsibility of the employer to mail an applicant a copy of the report if it is requested.

**CONSUMER DISCLOSURE
for Background Investigation**

For the benefit of the Organization, Employees, Clients, and Strategic Partners, _____ has a policy of pre-employment background screening reports on job applicants as a condition of employment. This policy is a business necessity that protects everyone by helping to promote a safe and profitable workplace. All pre-employment inquiries are limited to information that affects job performance and the workplace. It is conducted in accordance with applicable federal and state laws including the federal Fair Credit Reporting Act (FCRA). The screening will be conducted by an outside agency – USA-FACT, Inc. As a result, the employer may obtain a Consumer Report and/or an Investigative Consumer Report on you as an applicant or during employment.

1. A Consumer Report consists of information deemed to have a bearing on job performance, and may include information from public and private sources, public records, former employers, and references. The scope of the report may include information concerning your driver record, civil and criminal court records, credit, workers' compensation records, education, credentials, identity, past addresses, social security number, previous employment and personal reference.
2. A Consumer Report may also include reference checks from former employers, co-workers or references. Any past employment reference check is limited to job related information. These are known as an "investigative consumer report." This type of report is legally defined as a report based upon interviews that may contain information relating to character, general reputation, personal characteristics or mode of living. You may have the right to request additional disclosures of the nature and scope of the investigation and a statement of your rights. To receive this information or to inspect any files concerning such a report or to determine if a report on you has been requested, you may contact the employer or USA-FACT at 800.547.0263 or at 6200 Box Springs Blvd., Riverside, CA 92507. You may also contact us via our consumer web site at www.reviewmyreport.com.
3. In using a consumer report for employment purposes, before taking adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer under this title, as prescribed by the Federal Trade Commission section 609 (c) (3).
4. California Provision. In California, any report concerning a consumer's character, general reputation, personal characteristics or mode of living is defined as an Investigative Consumer Report. In addition to your rights under federal law, you have the following additional rights in California. You have the right to inspect USA-FACT's files during normal business hours and on reasonable notice. The inspection may be in person, by certified mail, or by telephone if the individual shows proper identification and pays for any copying or toll charges. The applicant may be accompanied by one other person who must show proper identification; and trained USA-FACT personnel will explain any of the information in the report and will provide written explanation for any coded information.
5. CALIFORNIA, MINNESOTA, AND OKLAHOMA APPLICANTS ONLY:

I request a copy of my consumer report I waive my right to a copy of my report

I hereby consent and authorize _____ and/or USA-FACT on the employer's behalf, to prepare a report as defined above for employment purposes:

Signed: _____

Today's Date: _____

Print Name: _____

Give Copy with Summary of Rights to applicant. Retain copy for your files.

**STEP
2**

Consumer Authorization

The second step in the compliance process is to obtain authorization from your applicant to obtain a background report on them. In all states except California, the disclosure and authorization document can be combined. Consult with your legal department to develop an interpretation for your organization.

**CONSUMER AUTHORIZATION
for Background Investigation**

A. In connection with my application for employment, I hereby authorize _____ to request any present or former employer, school, police department, financial institution or other persons having personal knowledge about me to furnish the consumer reporting agency or bearer with any and all information as to my character, general reputation, personal characteristics, and mode of living in connection with my application for employment. This information may reveal my work habits, including oral assessments of my job performance, experiences and abilities, along with reasons for termination of past employment.

B. I further authorize _____ to obtain information and records that includes, but is not limited to, credit history, criminal record, civil matters, driving record, previous employment, education verification, and professional license verification. A consumer report containing injury and illness records and medical information may be obtained after a tentative offer of employment has been made. Information is being procured from:

USA-FACT, Inc. — 6200 Box Springs Blvd. — Riverside, CA 92507 — 800.547.0263

C. In exchange for the employer's consideration of my employment application, I agree not to file or pursue any complaints, claims or legal actions of any kind against USA-FACT for providing the aforementioned information. I also agree not to file or pursue any complaints, claims or legal actions against _____ or any of its employees, representatives, or agents arising out of or in any way related to conducting a reference check or background investigation.

D. I am consenting that a photocopy of this authorization be accepted with the same authority as the original, and I specifically waive any written notice from any present or former employer who may provide information based on this authorized request. I understand this authorization is to be part of the written employment application that I sign.

E. I have been given a stand-alone consumer notification that a report will be requested and used for the purpose of evaluating me for employment, promotion, reassignment or retention as an employee. If hired, this authorization shall remain on file and shall serve as an ongoing authorization for _____ to procure consumer reports or investigative consumer reports at any time during my employment period.

F. I am entitled to receive a free copy of my consumer report before any adverse decision of possible employment is made because of information obtained within my report.

| | |
|---|---|
| Print Name: | |
| Signature: | Today's Date |
| Mailing Address: | |
| City, State, Zip: | Telephone No. (include Area Code) () |
| AKA's: (maiden name, etc.) | Date of Birth (for id purposes only) |
| Social Security Number (for id purposes only) | |
| Driver's License Number: | State of Issue: |
| The following States require sex and race information: AL, AR, FL, GA, IA, IL, IN, MI, OR, TX, WI | |
| Please circle one: Male Female Please circle one: Race: Asian Black Hispanic White Other | |

THIS PAGE CONTAINS SENSITIVE INFORMATION. KEEP ONLY IN SECURE FILES and SEPARATELY FROM PERSONNEL RECORDS.

STEP 3

Summary of Rights

The FACT Act of 2003 requires employers to provide every applicant that is screened by your organization a copy of the Summary of Rights. The language of the Summary is provided above but also includes a table of information for Consumer Protection Agencies which is not depicted on the sample.

A Summary of Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA.

For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

You must be told if information in your file has been used against you. Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment - or to take another adverse action against you - must tell you, and must give you the name, address, and phone number of the agency that provided the information.

You have the right to know what is in your file. You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:

a person has taken adverse action against you because of information in your credit report; you are the victim of identify theft and place a fraud alert in your file; your file contains inaccurate information as a result of fraud; you are on public assistance; you are unemployed but expect to apply for employment within 60 days.

In addition, by September 2005 all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.

You have the right to ask for a credit score. Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

You have the right to dispute incomplete or inaccurate information. If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.

Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information. Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

Consumer reporting agencies may not report outdated negative information. In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.

Access to your file is limited. A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.

You must give your consent for reports to be provided to employers. A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.ftc.gov/credit.

You may limit "prescreened" offers of credit and insurance you get based on information in your credit report. Unsolicited "prescreened" offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-800-916-8800.

You may seek damages from violators. If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.

TABLE of CONTACT INFORMATION for Protection Agencies

STEP 4

Adverse Action

If you deny an applicant a job based on a report, it is legally required to notify the applicant of the decision. The Adverse Action process is a two-part process. First is a pre-adverse action where you give the applicant the opportunity to dispute any information on a background report before taking an adverse action.

Pre-Adverse Action Notification

Date: January 1, 2008

OLIVER A. TWIST
Address Information

Dear Oliver Twist:

As part of the employee selection process for American Business and with your express written consent, USA-FACT processed your background report. The report contains information, which if accurate, would prevent American Business from offering you employment at this time. Due to the information contained on your background report, American Business is providing you with a copy of the background report along with a summary of your rights under the law.

If you wish to inquire about the specific information in the report not meeting our employment criteria, please contact American Business directly. Otherwise we will assume that you no longer wish to pursue employment with our organization. USA-FACT did not make this decision and will be unable to provide you with the specific reason why this action was taken.

If, after reviewing the report, you believe the information it contains is inaccurate, under the law, you have a right to dispute, directly with USA-FACT, any of the information in the report. If you choose to dispute the information, USA-FACT will:

1. Re-investigate the disputed information free of charge and either record the current status of the disputed information or delete it if necessary within 30 days of receiving your dispute
2. Provide notification of the dispute to any person who provided the information you dispute within five business days of receiving your notice of dispute
3. If the information is found to be inaccurate or incomplete or cannot be verified, we will promptly delete that item or modify it
4. Immediately contact the client to report the disposition of the dispute

You have the right to obtain an additional free copy of this report if you request it from USA-FACT within 60 days of when you receive this notice.

If you wish to dispute the accuracy of the report, you may contact USA-FACT at:

USA-FACT, Inc. — 6200 Box Springs Blvd., Riverside, CA — 92507
800.547.0263 — fax 951.656.3336 — www.reviewmyreport.com

Before USA-FACT can discuss this information with you on the phone, they require a signed authorization from you by mail or FAX. An authorization form, which you may use for this purpose, is enclosed for your convenience or you may dispute electronically by accessing www.reviewmyreport.com.

Sincerely Yours,

American Business
Enclosure: Background Report, Summary of Rights, Applicant Dispute Form

**STEP
4****Adverse Action**

Once you have notified the applicant that you will be denying employment based on the information in the background report along with providing them a copy of that report, a second notification is required. It is optional to provide the report, the summary, or the dispute form in the second communication.

Adverse Action Notification

Date: January 1, 2008

OLIVER A. TWIST
Address Information

Dear Oliver Twist:

After careful review your application for employment with American Business has been denied. This decision was made, in whole or in part, based on information obtained from USA-FACT, Inc.

This letter is sent to you in compliance with the Fair Credit Reporting Act. Please note, USA-FACT, Inc., DID NOT make the decision to take the adverse action and is unable to provide you with the specific reasons as to why the adverse action was taken.

If, after reviewing the report, you believe the information it contains is inaccurate, under the law, you have a right to dispute, directly with USA-FACT, any of the information in the report. If you choose to dispute the information, USA-FACT will:

1. Re-investigate the disputed information free of charge and either record the current status of the disputed information or delete it if necessary within 30 days of receiving your dispute
2. Provide notification of the dispute to any person who provided the information you dispute within five business days of receiving your notice of dispute
3. If the information is found to be inaccurate or incomplete or cannot be verified, we will promptly delete that item or modify it
4. Immediately following resolution, contact our client to report the disposition of the dispute

You have the right to obtain an additional free copy of this report if you request it from USA-FACT within 60 days of when you receive this notice.

If you wish to dispute the accuracy of the report, you may contact USA-FACT at:

USA-FACT, Inc. — 6200 Box Springs Blvd., Riverside, CA — 92507
800.547.0263 — fax 951.656.3336 — www.reviewmyreport.com

Before USA-FACT can discuss this information with you on the phone, they require a signed authorization from you by mail or FAX. An authorization form, which you may use for this purpose, is enclosed for your convenience. You also have the option to dispute electronically at www.reviewmyreport.com.

Sincerely Yours,

American Business

Enclosure: Background Report, Summary of Rights, Applicant Dispute Form

**STEP
4**

Applicant Dispute Notice

Once you have notified the applicant that you will be denying employment based on the information in the background report along with providing them a copy of that report, a second notification is required. It is optional to provide the report, the summary, or the dispute form in the second communication.

Applicant Dispute Notice

| | |
|---|--|
| <p>FAX to:</p> <p>Attn: Applicant Resolutions 951.656.3336 or go to: www.reviewmyreport.com</p> | <p>Mail to:</p> <p>USA-FACT, Inc. 6200 Box Springs Blvd. Riverside, CA 92507 Attn: Applicant Resolutions</p> |
|---|--|

Date:
Attention USA-FACT:

I have received the background report completed in connection with my employment application with

| |
|-------------------------|
| My Name: |
| Date of Birth: |
| Social Security Number: |
| Address: Phone: |

The information contained in your report that you are disputing?
Note: For disputes on your driving record please contact your respective state DMV.

| |
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| |
|----------------------|
| Applicant Signature: |
|----------------------|

| |
|-------|
| Date: |
|-------|

(Note: Information cannot be released without an applicant signature)



USA-FACT designed and maintains a Consumer Awareness site . . .

ReviewMyReport.com

Review My Report

As part of our compliance effort, USA-FACT has taken the time to create a site to help educate applicants on the screening process. We invite you to utilize our site to help your applicants and current employees understand the background screening process and in general how information regarding their lifestyle and character is stored and utilized in this country.

The key feature of this new site is the ability for an applicant to dispute the information on their background report. An applicant who calls you to discuss their screening report can now be directed to this web site to immediate resolution.

USA-FACT has published valuable consumer information such as what to do in the event that you've been a victim of Identity Theft. We also link to government web sites for applicants to learn more about their rights as consumers and who they can contact for additional information.

We sincerely hope you see the value of the ReviewMyReport web site. USA-FACT is committed to keeping our clients compliant with the laws governing screening and part of our compliance effort is the creation of this site.



Call Service Support for Any Questions

The USA-FACT Service Support Team is available Monday through Friday, 6 a.m. to 5 p.m. (Pacific Time). Service Support can answer any questions you may have regarding background screening compliance or how to get started using USA-FACT services.

You can contact Service Support at:

6200 Box Spring Blvd.
Riverside, CA 92507

800.547.0263

or via email at: customerservice@usafact.com