Record Retention

The federal Fair Credit Reporting Act (FCRA) is the federal law that regulates employers and background check firms with respect to employment background checks. The FCRA is enforced at the federal level by the Federal Trade Commission (FTC).

The FCRA contains a five year statute of limitation (SOL). A law's statute of limitations is the timeframe during which a claimant, either the FTC or a job applicant or employee, is permitted to file a legal claim against USAFact or a USAFact employer-client for an alleged violation of the FCRA relating to a background check. The five year FCRA SOL starts to run on the date the alleged FCRA violation occurs. An FCRA violation typically occurs sometime between when a background check is ordered through several weeks, or more rarely several months, after the background check is completed.

Due to the five year FCRA SOL, USAFact suggests a minimum of a six year record retention policy for our employer-clients for any record arising out of or relating to a background check provided by USAFact, including without limitation:

- The applicant’s resume
- The applicant’s employment application
- Any background check form completed by the applicant
- The background check disclosure form
- The background check authorization form
- The completed background check
- Any communication relating to the background check and hiring decision
- Any adverse action notices provided to the applicant
- Any communication relating to any applicant dispute of information contained in the background check

This suggested record retention policy would be applicable regardless of whether the record retained is a paper or electronic record.

An excerpt of the relevant SOL section of the FCRA is below:


Jurisdiction of courts; limitation of actions

An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of

(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

(2) 5 years after the date on which the violation that is the basis for such liability occurs.