

# Fact Sheet on the Fair Credit Reporting Act (FCRA) For State of Georgia Executive Branch Agencies

\*Note that you'll want to read this fact sheet if you have a role in the background check process. The FCRA isn't just for credit reports.

During the selection process, state agencies are responsible for checking references and sufficiently verifying suitability for hire, including verification of applicants' experience, education, and other credentials. When conducting background checks on job applicants, agencies are required to follow certain federal and state law procedures.

## **Fair Credit Reporting Act (FCRA) and State Personnel Board Rule Requirements – (As is noted in the header of this document, the FCRA isn't just for credit reports)**

Under federal law, background checks and credit history checks are types of "consumer reports." Use of such reports in hiring decisions requires compliance with the Fair Credit Reporting Act (FCRA). If an employer obtains background information from a company in the business of compiling such information, the FCRA requires certain consent and notification procedures. State Personnel Board Rule 6, *Recruiting, Screening, and Hiring*, requires the same procedures when an employer obtains screening information directly from the Georgia Crime Information Center (GCIC). SPB Rule 6 further states that criminal history checks and credit history checks may be conducted only on individuals who have been selected for hire.

Before accessing criminal history or seeking a background report from a third party (including the GCIC), an agency must obtain written consent from the applicant and provide notice that the background information might be used for employment decisions. Under the FCRA and SPB Rule 6, the release must be a stand-alone document, separate from the job application.

If a background check reveals unfavorable information, the agency is required to allow the applicant or employee an opportunity to explain inaccuracies and/or relevance of the information before the agency makes a final employment decision. If employment is to be denied, the agency must follow certain procedures when informing the applicant or employee.

The following checklist summarizes the steps an agency should take to ensure compliance with the FCRA and SPB Rule 6 throughout the applicant screening process.

### **Checklist:**

- Has the applicant been selected for hire?
- Prior to the background check, has the applicant signed a stand-alone consent form, separate from the job application, which includes notice that the information might be used for an employment decision?

- If the background check revealed unfavorable information, has the applicant been given an opportunity to discuss any inaccuracies, content, and relevance of the information obtained?
  - If employment will be denied based on information obtained in a third-party background check, has the agency informed the applicant that employment was denied because of the report?
  - Does the denial notice include
    - the name, address, and phone number of the company that compiled the report;
    - a statement that the company providing the report did not make the hiring decision and cannot provide the specific reasons for the decision; and
    - notice that the applicant has the right to dispute the accuracy or completeness of the report and request an additional report within 60 days without cost to the applicant?
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## **Background Check and FCRA Resources**

- [Business News Daily – FCRA Compliance for Employers](#)
- [Consumer Financial Protection Bureau – A Summary of Your Rights Under the Fair Credit Reporting Act](#)
- [First Advantage – Answers to Your Top Questions About Adverse Action](#)
- [SHRM – When do employers need to comply with the Fair Credit Reporting Act?](#)
- [State Personnel Board Rule 6, \*Recruiting, Screening, and Hiring\*](#)