

## **Background Screening Agency Accreditation Program**

## **INTRODUCTORY**

This Standard is applicable only to Consumer Reporting Agencies providing Consumer Reports for employment purposes.

## **DEFINITIONS**

For purposes of this standard, the terms and acronyms below shall have the following definitions.

1. "Consumer report" has the meaning given to it in § 603(d) of the federal FCRA.
2. "CRA" means a consumer reporting agency as defined in § 603(f) of the federal FCRA.
3. "Federal FCRA" means the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*
4. "Investigative consumer report" has the meaning given to it in § 603(e) of the federal FCRA.
5. "Policy" means a written directive that is required to be followed by the entity.
6. "Procedure" means a written description of how a policy is implemented and followed by the entity. (Procedures may be referred to within the entity as "standard operating procedures," "SOPs," "operating guidelines" or other names.
7. "Worker" means any individual who performs services for CRA and who has access to CRA premises or systems. The word "worker" encompasses employees as well as temporary workers, interns, contractors and others who perform work for the CRA.
8. "Public Record Researcher" means any person or entity contracted or employed by a CRA, other than another CRA providing consumer reports in pursuant to FCRA Sec. 607(e), who searches for and/or retrieves information that is currently in the custody of a government entity such as a court, state agency or other government repository.
9. "Consumer Information" means any information about an individual consumer provided to the CRA by the consumer, client, or other parties in the course of compiling a consumer report.
10. "FTC" means Federal Trade Commission.

## **Section 1: Consumer Protection**

### **Clause 1.1**

#### 1.1 Information Security Policy

CRA shall have a written information security policy. CRA shall designate one or more individuals within the organization who are responsible for implementing, managing and enforcing the information security policy.

### **Clause 1.2**

#### 1.2 Data Security

CRA shall have procedures in place to protect consumer information under the control of the CRA from internal and external unauthorized access. These procedures shall include specifications for the securing of information in both hard copy and electronic form, including information stored on portable and/or removable electronic devices.

### **Clause 1.3**

#### 1.3 Intrusion, Detection and Response

CRA shall have procedures in place to detect, investigate and respond to an information system intrusion, including consumer notification where warranted.

### **Clause 1.4**

#### 1.4 Stored Data Security

CRA shall have procedures in place to ensure backup data is stored in an encrypted or otherwise protected manner.

### **Clause 1.5**

#### 1.5 Password Protocol

CRA shall require strong password protocol pursuant to current security best practices.

### **Clause 1.6**

#### 1.6 Electronic Access Control

CRA shall have procedures in place to control access to all electronic information systems and electronic media that contain consumer information. CRA shall have procedures in place to administer access rights. Users shall only be given the access necessary to perform their required functions. Access rights shall be updated based on personnel or system changes.

**Clause 1.7**

1.7 Physical Security

CRA shall have procedures in place to control physical access to all areas of CRA facilities that contain consumer information.

**Clause 1.8**

1.8 Consumer Information Privacy Policy

CRA shall have a Consumer Information Privacy Policy detailing the purpose of the collection of consumer information, the intended use, and how the information will be shared, stored and destroyed. The CRA shall post this policy on its Web site, if it has one, and will make said policy available to clients and/or consumers upon request in at least one other format.

**Clause 1.9**

1.9 Unauthorized Browsing

CRA shall have a procedure that prohibits workers from searching files and databases unless they have a bona fide business necessity.

**Clause 1.10**

1.10 Record Destruction

When records are to be destroyed or disposed of, CRA shall follow FTC regulations and take measures to ensure that all such records and data are destroyed and unrecoverable.

**Clause 1.11**

1.11 Consumer Disputes

CRA shall have procedures in place for handling and documenting a consumer dispute that comply with the federal FCRA.

**Clause 1.12**

1.12 Sensitive Data Masking

CRA shall have a procedure to suppress or truncate Social Security numbers and other sensitive data elements as required by law.

**Clause 1.13**

1.13 Database Criminal Records

When reporting potentially adverse criminal record information derived from a non-government owned or non-government sponsored/supported database pursuant to the federal FCRA, the CRA shall either: A) verify the information directly with the venue that maintains the official record for that jurisdiction prior to reporting the adverse information to the client; or B) send notice to the consumer at the time information is reported.

**Section 2: Legal Compliance**

**Clause 2.1**

2.1 Designated Compliance Person(s)

The CRA shall designate an individual(s) or position(s) within the organization responsible for CRA's compliance with all sections of the federal FCRA that pertain to the consumer reports provided by the CRA for employment purposes.

**Clause 2.2**

2.2 State Consumer Reporting Laws

The CRA shall designate an individual(s) or position(s) within the organization responsible for compliance with all state consumer reporting laws that pertain to the consumer reports provided by the CRA for employment purposes.

**Clause 2.3**

2.3 Driver Privacy Protection Act (DPPA)

The CRA shall designate an individual(s) or position(s) within the organization responsible for compliance with the DPPA that pertain to the consumer reports provided by the CRA for employment purposes, if the CRA furnishes consumer reports that contain information subject to the DPPA.

**Clause 2.4**

2.4 State Implemented DPPA Compliance

If the CRA furnishes consumer reports that contain information subject to the DPPA-implementing statutes in a particular state(s), the CRA shall designate an individual(s) or position(s) within the organization responsible for compliance with state implementations of the DPPA that pertain to the products and services provided by the CRA for employment purposes.

**Clause 2.5**

2.5 Integrity

CRA shall not engage in bribery or any other fraudulent activity to obtain preferential treatment from a public official.

**Clause 2.6**

2.6 Prescribed Notices

CRA shall provide client all federal FCRA-required, FTC-prescribed documents which the federal FCRA mandates be provided to client by the CRA.

**Clause 2.7**

2.7 Certification from Client

Before providing consumer reports to clients, CRA shall obtain a signed agreement from client (referred to as "user" in federal FCRA) in which client agrees to meet the requirements of the federal FCRA, and applicable state and federal laws.

**Section 3: Client Education**

**Clause 3.1**

3.1 Client Legal Responsibilities

CRA shall have procedures in place to inform client that they have legal responsibilities when using consumer reports for employment purposes. CRA shall

recommend that client consult their legal counsel regarding their specific legal responsibilities.

**Clause 3.2**

3.2 Client Required Documents

CRA shall provide sample documents or inform client of specific documents which are needed to meet legal requirements regarding employer's procurement and use of consumer reports.

**Clause 3.3**

3.3 Truth in Advertising

CRA shall communicate to clients the nature of the original source, limitations, variables affecting the information available and scope of information provided by each consumer reporting product offered by the CRA.

**Clause 3.4**

3.4 Adverse Action

CRA shall inform client that there are legal requirements imposed by the federal FCRA and, in some instances, state consumer reporting laws, regarding taking adverse action against a consumer based on a consumer report. CRA shall recommend to client that they consult with counsel to develop a legally compliant adverse action policy.

**Clause 3.5**

3.5 Legal Counsel

CRA shall communicate to client that they are not acting as legal counsel and cannot provide legal advice. CRA shall communicate to client the importance of working with counsel to develop an employment screening program specific to their needs. CRA shall also communicate to client the necessity to work with counsel to ensure that client's policies and procedures related to the use of CRA-provided information are in compliance with applicable state and federal laws.

**Clause 3.6**

3.6 Understanding Consumer Reports

CRA shall provide guidance to client on how to order, retrieve, read and understand the information provided in consumer reports provided by the CRA.

**Clause 3.7**

3.7 Information Protection

CRA shall provide information to client regarding (1) the sensitive nature of consumer reports, (2) the need to protect such information and (3) the consumer report retention and destruction practices as outlined in the federal FCRA and the DPPA.

**Section 4: Researcher and Data Product Standards**

**Clause 4.1**

4.1 Public Record Researcher Agreement

CRA shall require a signed agreement from all non-employee public record researchers. The agreement shall clearly outline the scope of services agreed to by CRA and researcher, including jurisdictions covered, search methodology, depth of search, disclosure of findings, methodology and time frame for communication and completion of requests, methodology for confirming identity of subject of record(s), confidentiality requirements, and reinvestigation requirements.

**Clause 4.2**

4.2 Vetting Requirement

CRA shall have procedures in place to vet or qualify new public record researchers.

**Clause 4.3**

4.3 Public Record Researcher Certification

CRA shall require public record researcher to certify in writing that they will conduct research in compliance with all applicable local, state and federal laws, as well as in the manner prescribed by the jurisdiction which maintains the official record of the court; never obtain information through illegal or unethical means; and utilize document disposal and/or destruction methods pursuant to the federal FCRA.

**Clause 4.4**

4.4 Errors and Omissions Coverage

CRA shall obtain proof of public record researcher's Errors and Omissions Insurance. If public record researcher is unable to provide proof of insurance, CRA shall maintain coverage for uninsured and/or underinsured public record researcher.

**Clause 4.5**

4.5 Information Security

CRA shall provide a secure means by which public record researcher will receive orders and return search results.

**Clause 4.6**

4.6 Auditing Procedures

CRA shall maintain auditing procedures for quality assurance in regard to their active public record researchers.

**Clause 4.7**

4.7 Identification Confirmation

CRA shall follow reasonable procedures to assure maximum possible accuracy when determining the identity of a consumer who is the subject of a record prior

to reporting the information. CRA shall have procedures in place to notify client of any adverse information that is reported based on a name match only.

**Clause 4.8**

4.8 Jurisdictional Knowledge

The CRA shall designate a qualified individual(s) or position(s) within the organization responsible for understanding court terminology, as well as understanding the various jurisdictional court differences if CRA reports court records.

**Section 5: Verification Service Standards**

**Clause 5.1**

5.1 Verification Accuracy

CRA shall maintain reasonable procedures to assure maximum possible accuracy when obtaining, recording and reporting verification information.

**Clause 5.2**

5.2 Current Employment

CRA shall have procedures in place to contact consumer's current employer directly only when authorized by client and/or consumer.

**Clause 5.3**

5.3 Diploma Mills

When attempting educational verifications from known or suspected diploma mills, CRA shall have reasonable procedures in place to advise client of such.

**Clause 5.4**

5.4 Procedural Disclosures

CRA shall provide full disclosure to clients about general business practices regarding number of attempts to verify information, what constitutes an "attempt," locate fees, fees charged by the employer or service provider and standard question formats prior to providing such services.

**Clause 5.5**

5.5 Verification Databases

If CRA compiles and stores employment or education verification information for sale, CRA shall have procedures in place to ensure that data is accurate at the time information is provided to end user and have procedures in place for handling consumer disputes.

**Clause 5.6**

5.6 Use of Stored Data

If CRA provides investigative consumer reports from stored data, CRA shall have procedures in place to ensure the CRA does not provide previously reported adverse information unless it has been re-verified within the past three months, or for a shorter time if required by state or local law.

**Clause 5.7**

5.7 Documentation of Verification Attempts

CRA shall have procedures in place to document all verification attempts made and the result of each attempt, in completing all verification services.

**Clause 5.8**

5.8 Outsourced Verification Services

CRA shall require a signed agreement from all providers of outsourced verification services. The agreement shall clearly outline the scope of services to be provided, verification methodology, documentation of verification efforts, disclosure of findings, time frame for communication and completion of requests, confidentiality requirements, reinvestigation requirements and other obligations as furnishers of information under the federal FCRA.

**Clause 5.9**

5.9 Conflicting Data

Should CRA receive information from the verification source subsequent to the delivery of the consumer report, and as a direct result of the initial inquiry, that conflicts with originally reported information, and that new information is received within 120 days of the initial report, (or as may be required by law), CRA shall have procedures in place to notify client of such information.

**Clause 5.10**

5.10 Professional Conduct

CRA shall train all employees engaged in verification work on procedures for completing verifications in a professional manner.

**Clause 5.11**

5.16 Authorized Recipient

If CRA is requesting verification by phone, fax, email or mail, CRA shall have procedures in place to confirm that verification request is directed to an authorized recipient.

**Section 6: Miscellaneous Business Practices**

**Clause 6.1**

6.1 Character

Owners, officers, principals and employees charged with the enforcement of company policy must consent to undergo a criminal records check and be found free of convictions for any crimes involving dishonesty, fraud or moral turpitude.

**Clause 6.2**

6.2 Insurance

CRA shall maintain errors and omissions insurance. If CRA does not maintain errors and omission insurance, CRA must self-insure in a manner compliant with its state's insurance requirements.

**Clause 6.3**

6.3 Client Credentialing

CRA shall have a procedure to identify and authenticate all clients prior to disclosing consumer reports or other consumer information. The procedure shall require the CRA to maintain written records regarding the qualification of each client who receives consumer reports or other consumer information.

**Clause 6.4**

6.4 Vendor Credentialing

CRA shall have a procedure to identify and authenticate all vendors prior to disclosing consumer information. The procedure shall require the CRA to maintain written records regarding the qualification of each vendor who receives consumer information.

**Clause 6.5**

6.5 Consumer Credentialing

CRA shall develop and implement requirements for what information consumers shall provide as proof of identity prior to providing file disclosure to the consumer. The CRA shall maintain procedures to document the information used to identify each consumer to whom file disclosure is provided.

**Clause 6.6**

6.6 Document Management

CRA shall have a written record retention and destruction policy pursuant to the federal FCRA.

**Clause 6.7**

6.7 Employee Certification

CRA shall require all workers to certify they will adhere to the confidentiality, security and legal compliance practices of the CRA.

**Clause 6.8**

6.8 Worker Training

CRA shall provide training to all workers on confidentiality, security and legal compliance practices of the CRA.

**Clause 6.9**

6.9 Visitor Security

CRA shall utilize a visitor security program to ensure visitors do not have access to consumer information.

**Clause 6.10**

6.10 Employee Criminal History

CRA shall conduct a criminal records check on all employees with access to consumer information when such searches can be conducted without violating state or federal law. These searches shall be conducted at least once every two

years for the duration of their employment. Criminal offenses shall be evaluated to determine initial or continued employment based upon their access to consumer information and state and federal laws.

**Clause 6.11**

6.11 Quality Assurance

CRA shall have procedures in place to reasonably ensure the accuracy and quality of all work product.

**Clause 6.12**

6.12 Certification

CRA shall have on staff one person designated to oversee and administer the certification process and future compliance by the CRA, including enforcement of the standard by all concerned. This person shall be vested with the responsibilities and authority attendant to this task, and shall be the CRA contact for the auditor and certification related matters for NAPBS®.