

## **Procedures for Compliance with The Fair Credit Reporting Act (FCRA)**

This overview of the Fair Credit Reporting Act (FCRA) addresses requirements related to the employment background checking process and is provided only as general guidance to First Advantage customers. It is neither intended as legal advice nor as a sole educational tool for the employer's staff. You, as the employer, retain the responsibility to understand the FCRA and educate your staff involved in the screening process. Because the information contained herein is general and is neither complete nor necessarily applicable to your specific set of facts or circumstances, please consult your legal counsel for guidance.

For a full copy of the FCRA and other useful information, visit the Federal Trade Commission's (FTC) website [www.ftc.gov/os/statutes/fcra.htm](http://www.ftc.gov/os/statutes/fcra.htm).

The FCRA was enacted to help protect consumers in the consumer reporting process by regulating what is reported, the consumer reporting agency, and the employers or users of the consumer reports. The FCRA requires employers to take certain actions when it obtains a consumer report through a consumer reporting agency. The following procedures, which are divided into two categories, are suggestions that are designed to help employers comply with the FCRA. The first category, Report Ordering Procedures, involves actions employers must take with the consumer reporting agency and the applicant/consumer before a consumer report is ordered and received. The second category, Adverse Action Procedures, deals with the use of the consumer report and is only necessary if any of the information, in whole or in part, obtained from the consumer report adversely affects the applicant.

### **REPORT ORDERING PROCEDURES**

Here are the procedures to be taken by you, as the employer and user of the consumer report, before you order and receive a consumer report from First Advantage:

#### **Step 1. Certify to First Advantage**

Certify to First Advantage that you will comply with: (i) the FCRA requirements of providing a written disclosure and obtaining a written authorization from the applicant; (ii) all pre-adverse and adverse action procedures; and (iii) not using the consumer report in violation of any equal opportunity laws or any other laws.

#### **Step 2. Verify Applicant's Identity**

Require applicant to furnish proper identification so that you can verify and confirm his/her identity.

#### **Step 3. Provide Disclosure to Applicant**

Provide a clear and conspicuous disclosure in writing to the applicant in a document that consists solely of the disclosure, stating that a consumer report may be obtained for employment purposes. This Disclosure must be in a separate document and cannot contain any additional information except for the consumer's authorization. Please note that the Disclosure cannot be made a part of any form including the employment application.

*Click here to view a sample Disclosure.*

#### **Step 4. Obtain Authorization from Applicant**

Obtain written authorization from the applicant. As stated above, the Authorization may be obtained in the same document as the Disclosure, which is an exception to the general rule that the Disclosure must be in a separate document that consists solely of itself. In fact, some FTC opinions have found that having the Authorization on the Disclosure heightens the consumer's awareness to the Disclosure and furthers its purpose.

*Click here to see a sample Authorization.*

Therefore, one of the ways to comply with the Disclosure and Authorization requirements is to include the Authorization on the same document as the Disclosure but keep this combined document separate and apart from the employment application form. Another method of compliance is to use two separate documents, having the Disclosure by itself and the Authorization by itself.

*Click here to see a sample combined Disclosure and Authorization.*

### **ADVERSE ACTION PROCEDURES**

Not only does the denial of employment fall under the FCRA definition of "adverse action", but also any other decision for employment purposes that adversely affects any current or prospective employee will constitute an adverse action.\*

#### **Step 5. Provide Applicant Pre-Adverse Action Documents**

If the consumer report provides information that will negatively influence the employment opportunities of the applicant, whether in whole or in part, you must do all of the following BEFORE such an adverse action is made:

- a. Provide the applicant with a copy of the consumer report; and
- b. Provide the applicant a description in writing of their rights under the FCRA as prescribed by the FTC.

*Click here to see a sample Summary of Rights Under the FCRA.*

This pre-adverse action process allows the applicant the chance to dispute the negative information in the report. The employer should allow a reasonable amount of time for the applicant to respond to this pre-adverse notification before final determination is made or adverse action is taken. (There is an FTC opinion letter that deems 5 days as reasonable, but it will depend upon your circumstances.\*)

*Click here to see a sample Pre-adverse Action Letter.*

## **Step 6. Notify Applicant of Adverse Action**

If you decide to take any adverse action (such as not employing the applicant), based in whole or in part, on the information revealed in the consumer report, you must do the following in writing, orally or electronically\* (Again, First Advantage recommends written documentation.):

- a. Provide notice to the applicant of the adverse action\*;
- b. Provide to the applicant the names, address and telephone number of the consumer reporting agency and a statement that “the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the applicant the specific reasons why the adverse action was taken”; and,
- c. Provide notice to the applicant of his/her right to obtain within sixty (60) days, a free copy of the consumer report from the consumer reporting agency and to dispute with the consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the consumer reporting agency.

*Click here to see a sample Adverse Action Letter.*

Some variances exist for non-written consent for the trucking industry.\*

Please be aware that some states have requirements in addition to the FCRA that you will also need to comply with. For example, in the states of Minnesota and Oklahoma, you will have to give the applicant a written disclosure with a box the applicant can check if they want to obtain a copy of the consumer report. California has a similar requirement except it is limited to consumer credit reports.\*

\*Please consult legal counsel for what methods are best for your business operation and how to comply appropriately.

**SAMPLE DISCLOSURE:** *As the employer or user of consumer reports, it is your responsibility to ensure compliance with all of the relevant federal, state and local laws governing this area. We strongly recommend that prior to use, you consult with an attorney.*

**NOTICE TO APPLICANTS/EMPLOYEES REGARDING  
CONSUMER REPORTS**

A consumer report and/or an investigative consumer report including information concerning your character, employment history, general reputation, personal characteristics, police record, education, qualifications, motor vehicle record, mode of living, and/or credit and indebtedness may be obtained in connection with your application for and/or continued employment with the company. **A consumer report and/or an investigative consumer report may be obtained at any time during the application process or during your employment with the Company.** A consumer report containing injury and illness records and medical information may be obtained after a tentative offer of employment has been made. Upon timely written request of the Personnel Department of the Company, and within 5 days of the request, the name, address and phone number of the reporting agency and the nature and scope of the investigative consumer report will be disclosed to you.

Before any adverse action is taken, based in whole or in part on the information contained in the consumer report, you will be provided a copy of the report, the name, address and telephone number of the reporting agency, a summary of your rights under the Fair Credit Reporting Act, as well as additional information on your rights under the law.

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Print your name

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Signature

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Date

**SAMPLE AUTHORIZATION:** *As the employer or user of consumer reports, it is your responsibility to ensure compliance with all of the relevant federal, state and local laws governing this area. We strongly recommend that prior to use, you consult with an attorney.*

### **AUTHORIZATION FORM FOR CONSUMER REPORTS**

In connection with your application for employment (including contract for services), understand that consumer reports or investigative consumer reports which may contain public record information may be requested or made on you including consumer credit, criminal records, driving record, education, prior employer verification, workers compensation claims and others. These reports will include experience information along with reasons for termination of past employment. Further, understand that information from various Federal, State, local and other agencies which contain your past activities will be requested. A consumer report containing injury and illness records and medical information may be obtained only after a tentative offer of employment has been made.

By signing below, you hereby authorize without reservation, any party or agency contacted by this employer to furnish the above mentioned information. You further authorize ongoing procurement of the above mentioned reports at any time during your employment (or contract). You also agree that a fax or photocopy of this authorization with your signature be accepted with the same authority as the original.

You have the right to make a request of First Advantage, Inc., upon proper identification and the payment of any legally permissible fees, for the information in its files on you at the time of your request.

You hereby authorize and request, without any reservation, any present or former employer, school, police department, financial institution, division of motor vehicles, consumer reporting agencies, or other persons or agencies having knowledge about you to furnish First Advantage, Inc. with any and all background information in their possession regarding you, in order that your employment qualifications may be evaluated.

For California, Minnesota or Oklahoma applicants only, if you would like to receive a copy of the consumer report, if one is obtained, please check this box.  If checked and you are a California applicant, a copy of the consumer report will be sent within three (3) days of the employer receiving a copy of the consumer report.

For California applicants only, if public record information about your character, general reputation, personal characteristics, and mode of living is obtained without using a consumer reporting agency, you will be supplied a copy of the public record information within seven (7) days of the employer's receipt unless you check this box where you hereby waive your right to obtain a copy of the consumer report.

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**Print your Name:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Social Security Number:** \_\_\_\_\_

**Drivers License State:** \_\_\_\_\_ **License Number:** \_\_\_\_\_

*The following is for identification purposes only to perform the background check:*

**Date of Birth (MM/DD/YYYY):** \_\_\_\_\_ **Race:** \_\_\_\_\_ **Gender (M or F):** \_\_\_\_\_

**Other or Former Names:** \_\_\_\_\_

**Professional License:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Type:** \_\_\_\_\_ **Number:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**SAMPLE COMBINED DISCLOSURE AND AUTHORIZATION:** *As the employer or user of consumer reports, it is your responsibility to ensure compliance with all of the relevant federal, state and local laws governing this area. We strongly recommend that prior to use, you consult with an attorney.*

**COMBINED DISCLOSURE NOTICE AND AUTHORIZATION  
REGARDING BACKGROUND CONSUMER REPORTS**

**Important: Please read carefully before signing.**

A consumer report and/or investigative consumer report including information concerning your character, employment history, general reputation, personal characteristics, police record, education, qualifications, motor vehicle record, mode of living and/or credit and indebtedness may be obtained in connection with your application for and/or continued employment with the employer. **A consumer report and/or an investigative consumer report may be obtained at any time during the application process or during your employment with the employer.** A consumer report containing injury and illness records and medical information may be obtained after a tentative offer of employment has been made. Upon timely written request of the personnel department of the employer, and within 5 days of the request, the name, address and phone number of the reporting agency and the nature and scope of the investigative consumer report will be disclosed to you.

Before any adverse action is taken, based in whole or in part on the information contained in the consumer report, you will be provided a copy of the report, the name, address and telephone number of the reporting agency, and a summary of your rights under the Fair Credit Reporting Act.

**AUTHORIZATION**

You hereby authorize and request, without any reservation, any present or former employer, school, police department, financial institution, division of motor vehicles, consumer reporting agencies, or other persons or agencies having knowledge about you to furnish First Advantage, Inc. with any and all background information in their possession regarding you, in order that your employment qualifications may be evaluated.

**READ, ACKNOWLEDGED AND AUTHORIZED**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For California applicants only, if you would like to receive a copy of the credit report, if one is obtained, please check this box . For Minnesota or Oklahoma applicants only, if you would like to receive a copy of the consumer report, if one is obtained, please check this box .

**SAMPLE PRE-ADVERSE ACTION LETTER:** *As the employer or user of consumer reports, it is your responsibility to ensure compliance with all of the relevant federal, state and local laws governing this area. We strongly recommend that prior to use, you consult with an attorney.*

**PRE-ADVERSE ACTION NOTIFICATION**

Date: \_\_\_\_\_

Dear Applicant:

A decision is currently pending concerning your application for employment at \_\_\_\_\_ . We are forwarding a copy of the consumer report that you authorized in regard to your application for employment, together with a “Summary of Rights Under the Fair Credit Reporting Act.” The contents of the enclosed report are currently under review in consideration of your employment.

If this report contains any information that is inaccurate or incomplete, you should contact our office immediately so that the corrected information can be reviewed prior to an employment decision being made.

Regards,

**SAMPLE ADVERSE ACTION LETTER:** *As the employer or user of consumer reports, it is your responsibility to ensure compliance with all of the relevant federal, state and local laws governing this area. We strongly recommend that prior to use, you consult with an attorney.*

## **ADVERSE ACTION NOTIFICATION**

Dear Applicant:

We regret to inform you that based on our hiring criteria, we are unable to consider you further for an employment opportunity with our organization. This decision was made in part from the information we received from First Advantage, Inc., our employment screening vendor. First Advantage does not make these decisions and is unable to provide you with the specific reasons for them.

In accordance with the Fair Credit Reporting Act, you have previously received a copy of this information and a copy of your rights under the Act. You also have the right to obtain an additional free copy of the report within 60 days of your receipt of this letter by contacting the supplier at the addresses and telephone numbers below. Please refer to these documents if you have further questions. You have the right to dispute the accuracy or completeness of the information contained in the report(s) by contacting First Advantage or, if the report is a credit report, by contacting the credit bureau that furnished the report.

For credit reports, contact the bureau that supplied the report as listed on the consumer report:  
Experian: Consumer Assistance, P.O. Box 2350, Chatsworth, CA 91313, 888.397.3742  
Equifax: P.O. Box 740241, Atlanta, GA 30374-0241, 800.685.1111  
TransUnion: P.O. Box 7000, North Olmstead, OH 44071, 800.888.4213

For information on non-credit reports, contact:  
First Advantage, Inc.  
P.O. Box 23199  
St. Petersburg, FL 33742-3199  
800.321.4473, ext. 8

Any dispute regarding the information on your report must be resolved with the agencies above.

Thank you for your interest in employment with our organization.

Regards,