

BACKGROUND CHECKS AND USE OF CRIMINAL RECORD, FINANCIAL, AND SUBSTANCE ABUSE-TESTING INFORMATION IN EMPLOYMENT DECISIONS AND FOR VOLUNTEERS WITH SIMILAR RESPONSIBILITIES; TRAINING FOR POSITIONS WORKING WITH MINORS

I. Background and Overview.

The University of Arkansas is permitted by law to obtain and consider criminal history, financial history, and substance abuse testing information in making employment decisions when job-related and a business necessity.¹ This policy authorizes each campus, division, and unit of the University of Arkansas System to obtain and utilize criminal history information, and, where appropriate, financial history and substance abuse testing information (collectively “background check information”) in making employment decisions. This policy also provides guidance regarding the appropriate use and safeguarding of such information (including applicable standards for disqualification), consistent with state and federal law.

The University strictly prohibits the use of background check information in a manner that constitutes a violation of an individual’s civil rights. Accordingly, it is important for each campus, division, and unit to follow proper procedures and criteria in obtaining and using such information, as described in this policy. Furthermore, it is critical that the confidentiality of all such records be protected to the maximum extent possible.

Note that this policy is intended for general guidance purposes only. Administrators should be aware that state and federal statutes and regulations may provide more specific restrictions, requirements or procedures with regard to particular employment categories. This policy does not create any right to procedural or substantive due process of law beyond that mandated by federal and state laws, if any, nor does it create any contract rights to any applicant or employee. Furthermore, this policy is subject to all policies of the Board of Trustees of the University of Arkansas.

II. Scope of Coverage.

This policy shall be applicable to all campuses, divisions, and units of the University of Arkansas System, except as noted herein. Each campus, division, or unit shall establish its own procedures, consistent with this policy, for conducting and utilizing background checks with regard to employment decisions. In general, job categories covered by background checks shall be determined based on the nature of job responsibilities, rather than on the nature of appointment, such as, full-time, part-time, or graduate assistant. However, because of the unique relationships of medical interns, residents, and fellows, the UAMS College of Medicine will develop a separate policy for those individuals, to be consistent with Accreditation Council for Graduate Medical Education guidelines and the requirements of the National Resident Matching Program.

¹ See Ark. Code Ann. § 12-12-1502(a); EEOC Policy Guidance: *Consideration of Arrest Records in Employment Decision under Title VII of the Civil Rights Act of 1964* (Sept. 7, 1990).

A. Job Categories for Which Background Checks Are Required.

Criminal background checks (including registered sex offender checks), and where applicable, other registry record checks, shall be conducted for persons newly hired or promoted in the following classes of positions:

- Law enforcement officers
- Child care workers²
- K-12 teachers, pre-service teachers, administrators, and non-certified personnel³
- Other positions (including faculty) providing care or supervision to minors as a primary job duty, including all persons with responsibilities for conducting camps or similar programs
- Health care providers such as nurses and physicians, including faculty with access to or providing services to patients
- Positions (including faculty) providing services as clinical psychologists, social workers, and licensed professional counselors as a primary job duty
- Other positions (including faculty) providing care or supervision to mentally ill or developmentally disabled⁴ persons as a primary job duty
- Resident assistants/head residents in residence halls.

In addition, a criminal background check is required for a person newly hired into a position with “supervisory fiduciary responsibility over all fiscal matters.”⁵

Furthermore, substance abuse testing shall be conducted for all persons newly hired or promoted for positions which serve primarily as bus and van drivers, or which positions otherwise require a Commercial Driver’s License.⁶

² Checks for child care workers must be conducted by Arkansas State Police and Arkansas Department of Human Services (DHS) Child Maltreatment registry, and must be renewed at least every five years. Ark. Code Ann § 20-38-103(a) & (d).

³ Primarily applies to Arkansas School for Mathematics, Sciences and the Arts; checks for K-12 employees must be conducted by Arkansas State Police and DHS Child Maltreatment registry. See Ark. Code Ann. §§ 6-17-410, 6-17-411 & 6-17-414.

⁴ For this policy, developmentally disabled means a significant disability attributed to mental retardation, cerebral palsy, epilepsy, autism, or related conditions.

⁵ Ark. Code Ann. § 25-1-123(b)(1). The check must be conducted by the Identification Bureau of the Arkansas State Police. *Id.* This should include, for example, any job title such as chancellor, vice chancellor for finance and administration, chief financial officer, or treasurer.

⁶ Includes any employee whose position requires driving a motor vehicle: a) with a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds; b) with a gross vehicle weight rating of 26,001 or more pounds; c) designed to transport 16 or more passengers, including the driver; or d) of any size that is used to transport hazardous material which requires the vehicle to be placarded under the hazardous materials regulations. See 49 CFR §§ 382.107 & 382.301; Ark. Code Ann. § 27-23-103(7).

Checks must be conducted for volunteers with responsibilities similar to paid employees in covered positions.

B. Job Categories for Which Background Checks Are at the Option of the Campus.

Each campus, division, or unit may choose to designate additional job categories or titles which shall be subject to background checks, provided that officials determine that such checks are necessary to the proper conduct of the position, for example, due to considerations of public safety, responsibility for supervision of personnel, safeguarding University funds, property, or reputation, or protecting the welfare of members of the University community.

C. Contractors.

Each campus, division or unit may require any contractor to conduct background checks for positions that would require checks under this policy or any campus, division or unit background check policy.

D. Training for Employees Working with Minors.

In addition to background checks, all new employees who provide care or supervision of minors as part of their job responsibilities must receive a copy of the campus, division or unit policy on protection of minors and the employee must acknowledge in writing that he or she has read and understands the policy. Further, the new employee must complete a live or on-line training program on protecting minors, including child maltreatment reporting, prior to the performance of job duties.

III. Procedures for Conducting Background Checks and the Fair Credit Reporting Act.

All campuses, divisions, or units conducting and utilizing background check information must establish campus-, division-, or unit-level procedures that are consistent with this policy. At a minimum, such procedures shall include the following for all covered positions:

Identification of Covered Positions. Based on business necessity, the campus, division, or unit shall determine which positions should be subject to background checks and the nature of the information to be obtained (e.g., criminal, financial, or substance abuse testing).

It is the intent of this policy that financial checks and pre-employment substance abuse testing information shall only be conducted where the information is directly relevant to the job responsibilities.

Job Announcement Language. Job announcements for all positions that will be subject to a pre-employment background check should include specific notice language to that effect. Sample notice language is provided in the appendix to this policy.

Self-Disclosure of Information on Job Applications; Application Language; Interviews. Applicants for positions that are subject to a pre-employment background check, as well as any other positions designated by each campus, division, or unit shall be required to self-

disclose all criminal convictions other than minor traffic offenses (including, but not limited to, status as a registered sex offender), as well as any arrests pending adjudication. Depending on the position, applicants may also be asked whether they have ever been debarred from conducting business with any federal or state agency.

Sanctions for Failure to Provide Accurate Information. Applications shall state that failure to provide accurate information may be grounds to reject an application, withdraw an offer of employment, or for termination at any time.

Relationship to Job Requirements. Applications shall also state that the fact of a criminal conviction or arrest pending adjudication alone shall not disqualify an applicant in the absence of a relationship to the requirements of the position.

Requirement of Additional Information. For a limited number of appropriate positions, applications may also require applicants to furnish job-related, relevant financial history information, such as recent bankruptcies, or substance abuse testing information.

Job Interview Questions. In the interview process it is acceptable to inquire about convictions and arrests pending adjudication, but generally not other arrests unless required by law.

Written Authorization for Release of Information. Applicants for positions subject to background checks shall be required to execute a separate written authorization for the release of criminal and/or financial information as part of the job application process. If a check is conducted, the authorization shall be maintained in the files of the campus, division or unit for at least three (3) years.⁷ A separate authorization form shall be utilized, if necessary, for any substance abuse testing to occur.

Fair Credit Reporting Act. If a private background check provider (known as a “consumer reporting agency”) is utilized, the requirements of the Fair Credit Reporting Act (FCRA) must be followed.⁸ Note that such requirements do not apply to Arkansas State Police checks or credential checks carried out by University officials.⁹ Criminal or financial history information obtained through a private provider is referred to by the FCRA as a “consumer report.”

Separate Written Notice and Authorization. Under the FCRA, the University must provide the applicant with a “clear and conspicuous” written notice that the University intends to obtain a consumer report, as well as written authorization from the applicant. The notice must be a “separate disclosure” that cannot simply be part of an employment application form. Sample FCRA disclosure and authorization forms are attached in the Appendix to this policy, or may be supplied by the contractor.

⁷ See Ark. Code Ann. § 12-12-1506(a)(4)(A).

⁸ 15 U.S.C. §1681 et seq.16 CFR Part 601.

⁹ See Fed. Trade Comm’n FCRA Staff Opinion Letter “Pickett (07-10-98)”, located at <http://www.ftc.gov/os/statutes/fcra/index.htm>.

Certification. The University must certify to the private provider that the consumer report will be used only for permitted purposes under the FCRA, and not in violation of any applicable state or federal equal opportunity law or regulation. Under the FCRA, the report may only be obtained for the purpose of evaluating an individual for employment, promotion, reassignment or retention as an employee.

Investigative Consumer Reports. Additionally, if an “investigative consumer report” is to be requested from a consumer reporting agency in which information regarding an applicant or employee’s character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by such agency, the campus, division, or unit must provide notice to the consumer not later than three days after the date that the report was first requested.¹⁰

Upon the request of the subject, the campus, division, or unit must make a complete disclosure of the nature and scope of the investigation within five days after the request or after the date of the request for the report, whichever is later.

Background Checks to be Conducted for Finalists; Contingent Offers of Employment. Background checks (including substance abuse testing) shall be conducted –only after a candidate becomes the finalist or one of the finalists for a position. Unless prior completion of the check is required by law for the position, a campus, division or unit may make an offer of employment that is expressly conditioned on completion of a background check that is fully satisfactory in the sole discretion of the University.

Promotions and Transfers; Previous Background Checks; Camps. Incumbent employees who are applicants for new positions are subject to the background check requirements for the new position. To the extent permitted by law, if the applicant has undergone a background check of a particular type within the past two years, and the applicant has remained continuously employed by the University (allowing for regular seasonal breaks of six months or less) in good standing since the check was conducted, a new check is not required under this policy.

For clarification, applicants not continuously employed by the University but who are rehired each year (for example, as camp employees), must have a new check conducted. K-12 school employees who have a current background check on file with his or her school district, and remain employed by that school district, may have such background check furnished to the University, but only if it is submitted directly by the human resources office of the district, rather than by the employee.

Submission of Background Check Requests. Each campus, division, or unit shall designate one or more officials (for example, within its human resources office) as authorized to submit background check requests on behalf of the campus, division, or unit. Requests shall be provided to an appropriate, qualified background check information provider based on the type of position and the nature of the information sought. Note that for

¹⁰ This affirmative duty of notice under the FCRA only applies when information is obtained through a third-party vendor, rather than gathered directly by representatives of the institution, such as a search committee.

certain types of positions, such as child care workers, requests are required by law to be directed to the Identification Bureau of the Arkansas State Police and the Child Maltreatment Registry of the Arkansas Department of Human Services.¹¹

Criminal History Requests Limited to Convictions and Arrests Pending Adjudication. Except for law enforcement personnel, criminal history requests shall be limited to criminal convictions and arrests currently pending adjudication, and shall not include other arrests. The requestor shall follow the requirements of the information provider.

Qualified Providers. A qualified background check provider may include the Arkansas State Police or a private contractor, given the nature of the position and other factors, such as the length of the subject's residence in the State of Arkansas.

Costs. Costs of any background checks shall be borne by the hiring authority, or as otherwise determined by the campus, division, or unit.

Review and Use of Information. The authorized recipient of the background check report shall review the report. If the recipient receives a notice of address discrepancy, the recipient shall take steps designed to enable the recipient to form a reasonable belief that a consumer report relates to the intended person.¹² If job-related adverse information appears on the report, the recipient shall notify the hiring authority of the relevant information and confer with the hiring authority regarding any employment action to be taken.

Adverse Determinations. The determination to deny employment to a finalist for a position due to adverse, job-related background check information shall be made by the hiring authority, in consultation with the director of the campus, division, or unit human resources office and, as appropriate, with the Office of the General Counsel and/or the campus, division, or unit public safety office or equal employment opportunity office and shall be subject to all other University policies.

Approval of Decisions to Hire or Promote. A decision to hire or promote an applicant with adverse, job-related background check information shall require the approval of a vice chancellor or comparable senior campus, division or unit official.

Documentation. Persons making determinations under this policy shall document the reasons, within the standards of this policy, for the employment decision made.

Notification of Adverse Information. If any information in a criminal background check or financial history report is utilized to make an adverse action regarding an employment decision, the hiring authority shall notify the applicant or employee of the information and its source in writing **before** making a final determination. When notified of the intended adverse action, the applicant or employee shall be given five business days to request, in writing, clarification or further review of the decision. If the adverse action to be taken is

¹¹ See, e.g., Ark. Code Ann. § 20-38-103(a)(3)(B).

¹² 16 CFR § 681.1(c)(1).

based on a consumer report covered by FCRA, the campus, division, or unit must use the following two-step process:

1. Pre-Adverse Action Disclosure. The campus, division, or unit must first provide a “pre-adverse action disclosure” to applicant or employee, including a copy of the consumer report together with a copy of the Summary of Consumer Rights prescribed by the Federal Trade Commission pursuant to 15 U.S.C. § 1681g(c). The campus, division, or unit then must wait five business days before taking the adverse action. A copy of the Summary is attached in the Appendix to this policy.

2. Adverse Action Notice. After the adverse action is taken, the campus, division, or unit must provide the applicant or employee with an “adverse action notice” including the following information:

- a) notice of the adverse action taken;
- b) the name, address, and phone number of the reporting agency;
- c) a statement that the consumer reporting agency did not make the adverse decision and is not able to explain the decision;
- d) a notice summarizing the consumer’s rights to obtain a free disclosure of his or her file from the reporting agency if requested within 60 days;
- e) a notice of the consumer’s right to dispute directly with the agency the accuracy or completeness of any information provided.

A sample adverse action notice is attached in the Appendix to this policy.

Substance Abuse Testing Results. In the case of positive substance abuse testing results, the subject shall be permitted to submit relevant medical information pertaining to the positive test results.

Confidential Storage of Information; Retention Period; Statistical Data. Background check information shall be maintained by the authorized recipient of the report (such as the campus human resources office) in a confidential file that is segregated from an application or employee personnel file. Access to background check information shall be restricted to authorized persons with a specific, job-related need to know. Background check information may be exempt from disclosure under the Arkansas Freedom of Information Act.¹³ Background check information shall be retained for a period of three years from the date of any hiring decision and then securely destroyed by the recipient. Human resources offices shall assemble statistical data (without names) which reflects information and experience under this policy.

¹³ See, e.g., Ark. Code Ann. § 20-38-110(b).

IV. Criteria for Disqualification – Applicants.

Where pre-employment inquiries, written or oral, are directed to a prospective employee regarding criminal history or other background check information, or information from other sources is sought and/or received regarding prior convictions or arrests pending conviction, such information shall be utilized only in accordance with the standards set out in this policy. This policy shall also apply to incumbent employees applying for positions identified as appropriate for background checks.

1. **Job Relationship and Business Necessity.** Information concerning criminal history, financial history, or substance abuse testing results shall be utilized only with reference to determining fitness of the individual to be an employee in terms of job relationship and business necessity. The basic inquiry is whether the safe and efficient conduct of the functions of the job position would be inconsistent with the employment of the individual in view of his or her record. Relevant considerations include safety of fellow employees and students, fitness for supervisory role, and protection of property, funds and reputation of the University of Arkansas, as well as safety of the public. Convictions, from that fact alone, and other background check information, shall not be treated as an absolute bar to employment if not relevant to the position sought.
2. **Number, Seriousness and Recency of Convictions; Work History.** Appropriate consideration shall be given to the number and seriousness of any convictions (or other relevant information contained in a background check report), as well as how recently the matters occurred. For example, depending on the nature of the offense, a single conviction more than fifteen (15) years old might not disqualify an applicant. Consideration may also be given to the subject's intervening work history.
3. **Use of Arrest Information, if Received.** Unless otherwise required by law or University policy, arrests on charges not followed by convictions shall not be considered in making employment decisions, unless the hiring authority specifically determines that the alleged conduct was actually committed and is related to the position sought. The hiring authority should examine the surrounding circumstances, offer the applicant or employee the opportunity to explain, and, if he or she denies the misconduct, make follow-up inquiries to assess his or her credibility.
4. **Uniform Application.** These standards shall be applied uniformly to all applicants for employment with the University, and uniformly regardless of their race, color, religion, sex, national origin, disability or any other category prohibited by law or by University policy.
5. **Expunged Records.** Hiring authorities shall observe current statutory requirements regarding consideration of any expunged criminal records. In general, expunged records shall not be considered by hiring authorities, other than with respect to persons applying for law enforcement positions, positions in child care facilities, or certain other positions providing care or other services to vulnerable populations.¹⁴

¹⁴ See Ark. Code Ann. §§ 16-90-901 - 906, 20-38-105(c)(2)&(3).

V. Criteria for Disqualification – Incumbent Employees.

Criminal matters or other suspected misconduct arising after an individual is an employee of the University may be relevant to decisions regarding his or her future employment relationship with the University. University employees must report to their supervisor, within 24 hours or at the earliest possible opportunity thereafter, any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine. Failure to make such a report shall constitute grounds for disciplinary action, up to and including termination. The employee shall cooperate fully during any review process undertaken by the University. The University reserves the right to conduct a criminal or financial history investigation when an employee is charged with any crime that may adversely affect his/her suitability for continued employment, or during the course of an administrative investigation. In general, the above disqualification criteria regarding applicants for employment will furnish guidance regarding incumbent employees as well.

Criminal Convictions of Employees. A criminal conviction may furnish the basis for discharge where it (a) is followed by incarceration, making the individual unavailable for work, or (b) resulted from an offense directed at the University or its property, at other employees of the University, or at members of the public while on University premises, or (c) otherwise calls into question the fitness of the individual to be an employee in terms of job relationship and business necessity.

Criminal Arrests of Employees. An arrest on a felony charge may furnish the basis for discharge, suspension from employment, or leave of absence without pay pending trial upon consideration of a variety of factors including, but not limited to, whether the offense was directed against the University or its property or employees, or while on University premises, whether the individual will be incarcerated pending trial, whether retention of the individual in the position will constitute a danger to others or to him or her, and similar factors. An employee shall not be terminated based solely on the fact of an arrest; however, action may be taken against an employee prior to his/her criminal adjudication based on investigation of the available facts and circumstances if the employing office determines that the alleged conduct occurred, and that it bears significantly on the employee's continued fitness for the position, or if the employee is unavailable to report to work.

VI. Incumbent Employees – Ongoing Authorizations. Consistent with the Fair and Accurate Credit Transactions Act (FACTA), which amended FCRA, a campus, division, or unit may require employees to provide ongoing authorization to obtain updated background checks (consumer reports) at any time during the term of their employment.¹⁵ Use of such checks should be limited to sensitive positions on a job-related basis. Any such requirements should be applied and enforced in a consistent manner across similar positions.

VII. Employee Misconduct Investigations. If the campus, division or unit uses the services of a private contractor to assist in its conduct of “employee misconduct investigations,” under FACTA such investigations are not considered “consumer reports” and do not require prior notice or consent under FCRA. Covered investigations pertain to 1) suspected misconduct relating to employment or

¹⁵ See 15 U.S.C. § 1681b(b)(2)(A)(II); FTC Notice to Users of Consumer Reports § III.A.

2) compliance with Federal, State or local laws and regulations, the rules of a self-regulatory organization, or any pre-existing written University policies.¹⁶

Adverse Action Notice. However, if investigation information provided by a consumer reporting agency forms the basis for an adverse employment action against an employee, the campus, division, or unit must provide an “adverse action notice” after the action is taken, together with a summary of the investigation report.¹⁷

VIII. Questions Regarding Application of the Policy. Questions regarding interpretation of this policy should be directed to the Office of the General Counsel.

April 29, 2016

¹⁶ 15 U.S.C. § 1681a(x)(1)(B).

¹⁷ 15 U.S.C. § 1681a(x)(2); FTC Notice to Users of Consumer Reports § V.

APPENDIX

SAMPLE JOB ANNOUNCEMENT LANGUAGE

[NOTE: Bracketed information may be included or omitted depending on the checks to be conducted for the position.]

This position is subject to a pre-employment [criminal background [and registry] check] [financial history background check] [drug screen]. [A criminal conviction or arrest pending adjudication] [adverse financial history information] alone shall not disqualify an applicant in the absence of a relationship to the requirements of the position. [Background check] [drug screening] information will be used in a confidential, non-discriminatory manner consistent with state and federal law.

FAIR CREDIT REPORTING ACT (FCRA) DISCLOSURE

The following contains information required by law to be disclosed when obtaining investigative/consumer/credit reports. These reports may include criminal background checks and credit checks, among others.

The Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, permits an employer to obtain a consumer report from a consumer reporting agency, regarding its employment applicants or current employees, to assist it in making employment-related decisions. The consumer report may include information which bears on your credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, mode of living, or criminal record. However, an employer must secure the prospective or current employee’s authorization in writing before it may request a consumer report about them.

If the consumer reporting agency seeks information regarding character, general reputation, personal characteristics and mode of living obtained by personal interviews with neighbors, friends, or associates, i.e. an investigative consumer report, then the applicant or employee upon whom the information is sought may request a complete disclosure by the employer of the nature and scope of the investigation. This disclosure must be made in writing to the applicant or employee no later than five (5) days after the receipt of the disclosure request or from the date the employer requested the report (whichever is later).

If the University of Arkansas obtains a consumer report/investigative consumer report when making an employment-related decision that directly and adversely affects you, you will be provided with a copy of the consumer report/investigative consumer report, a summary of your rights under the FCRA and the source of the report before the decision is finalized. You also may contact the Federal Trade Commission about your rights under the FCRA.

The University of Arkansas obtains consumer/investigative consumer reports for employment purposes. The University of Arkansas will evaluate the findings of the report(s) in terms of the business necessities of the position and relatedness to the duties of the position.

Your signature below confirms that you have read this disclosure completely. Please also complete the Authorization Form, which allows you to give your consent.

Applicant’s/Employee’s Signature _____ Date _____

Printed Name _____

I agree that a photocopy or facsimile of this disclosure shall be valid as the original.

AUTHORIZATION TO OBTAIN INVESTIGATIVE/CONSUMER/CREDIT REPORT

[NOTE: Delete bracketed language where not applicable].

By signing below, I acknowledge that I have read the document "Fair Credit Reporting Act (FCRA) Disclosure." I voluntarily authorize the University of Arkansas (UA) to obtain a[n] [investigative/] consumer/credit report on me through the credit or consumer reporting agency of its choice in connection with my employment. [I further authorize UA to check my consumer/credit record as needed, on a continuing basis, as it relates to my employment.] UA will evaluate report findings in terms of business necessity and relatedness to the duties of the position.

I hereby authorize without reservation, any party or agency contacted by this employer to furnish the above information. I also authorize UA to consider the report when making decisions regarding my employment with UA and acknowledge that I have rights under the FCRA, including the rights discussed in the "FCRA Disclosure." I understand that information being obtained will not be used in violation of any federal or state equal opportunity law or regulation.

Except as provided for under FCRA or otherwise required by law, I hereby release the UA and its employees, as well as the report provider and its employees, from all liability resulting from furnishing this information to UA. I certify that the statements made on this form are true, complete, and correct to the best of my knowledge, and are made in good faith. I understand that any false statements could void my consideration for employment, result in termination of any offer of employment, or result in disciplinary action, including but not limited to termination of employment.

Please PRINT the following information -- Include your FULL name(s)

First Name: _____ Middle Name: _____ Last Name: _____

Other/Former Names: _____

Current Address: _____

City: _____ State: _____ ZIP: _____

Years in Residence: _____ Social Security No.: _____ - _____ - _____ Birth date: _____ - _____ - _____

The UA is requesting your social security number (SSN) to expedite obtaining a report. Your SSN will not be disclosed to anyone outside the UA or the report provider except as mandated by law. Birth date to be used solely for purposes of obtaining report.

Previous Address: _____

City: _____ State: _____ ZIP: _____

Driver's License State: _____ License Number: _____

Professional License State: _____ Type: _____ Number: _____

Signature

Date

I agree that a photocopy or facsimile of this authorization shall be valid as the original.

Para información en español, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

A Summary of Your 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 FCRA. **For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **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 identity 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, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore 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.consumerfinance.gov/learnmore 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.consumerfinance.gov/learnmore.
- **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 1-888-5-OPTOUT (1-888-567-8688).
- The following FCRA right applies with respect to nationwide consumer reporting agencies:

CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

You have a right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is

placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

- **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.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.consumerfinance.gov/learnmore.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:

TYPE OF BUSINESS:	CONTACT:
<p>1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:</p>	<p>a. Consumer Financial Protection Bureau 1700 G Street, N.W. Washington, DC 20552</p> <p>b. Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of Consumer Financial Protection (OCFP) Division of Consumer Compliance Policy and Outreach 1775 Duke Street Alexandria, VA 22314</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement & Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590</p>
<p>4. Creditors Subject to the Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, S.W. Washington, DC 20423</p>
<p>5. Creditors Subject to the Packers and Stockyards Act, 1921</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, S.W., Suite 8200 Washington, DC 20416</p>
<p>7. Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549</p>
<p>8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090</p>
<p>9. Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357</p>

SAMPLE PRE-ADVERSE ACTION NOTICE

Current Date

Name of Applicant/Employee
Street Address
City State Zip
Dear Applicant/Employee,

When you applied for the [Job Title] position – in the [Department Name] at the University of Arkansas, you consented to a background check conducted by a consumer reporting agency.

The University of Arkansas contracted with [Contractor], whose address and telephone number are [Contractor's Address], Telephone: []

[Contractor] has reported to us the following information:

[Insert disqualifying information]

Based on this information, you would not be extended an offer of employment. [Contractor] has not made this decision and is not able to explain why the decision was made.

The University of Arkansas is enclosing a copy of the report and a summary of your rights under the federal Fair Credit Reporting Act. You have the right to obtain a free copy of your file from [Contractor] if you request the report within 60 days. You also have the right to dispute directly with [Contractor] the accuracy or completeness of any information provided by it.

If you believe the information listed above is not accurate, please contact [insert name, telephone number of contact] within five business days of receipt of this letter. The University will not make a final decision regarding your application until [insert date]. This will give you an opportunity to contact us if you want to dispute the report submitted by [Contractor].

Sincerely,
[Your Name]
[Your Title]

Enclosures: Report
FTC Summary of Rights

SAMPLE ADVERSE ACTION NOTICE

Date

Name of Applicant
Street Address
City State Zip

Dear Applicant:

I am writing to advise you that we are unable to continue to consider you as a candidate for the [Job Title] position in the Department Name at the University of Arkansas. This determination was influenced by information contained in a consumer report, made at our request and provided by:

[Contractor Name]
[Contractor Address]
[Contractor Address]
[Contractor Telephone]

Under the federal Fair Credit Reporting Act we are required to make the following disclosure to you:

You have the right to obtain a free copy of your file from the consumer-reporting agency if you make a request with the agency within 60 days. Enclosed with our letter to you dated [date of Pre-Adverse Notice], you were provided with a copy of the report we received from [Contractor]. You also have the right to obtain from the consumer reporting agency, free of cost, an additional copy of the report. You also must be provided with a copy of the Federal Trade Commission's summary of Consumer Rights, which is attached to this letter. The summary was also included with our letter to you dated [Date of Pre-Adverse Notice].

You have the right to dispute directly with the consumer reporting agency the accuracy or completeness of any information provided by the consumer reporting agency. The consumer reporting agency did not make the adverse employment decision and is not able to explain why the decision was made.

Sincerely,

[Your Name]
[Your Title]

Enclosure: FTC Summary of Rights