



ACCUTRACE

YOUR CONFIDENCE. OUR MISSION.

Accutrace Compliance Kit 2019

Sample Documents

For Educational Purposes Only

Forms:

Credit Check, Background Check Disclosure and Release
Not valid for California

Introduction

An important part of your employment screening program involves compliance with various state and federal laws. Therefore, we are enclosing information regarding the Federal Fair Credit Reporting Act (FCRA) and certain applicable state statutes. While we are happy to provide you with this information, it is your responsibility to comply with applicable law and to understand how the FCRA and other applicable laws pertain to your employment screening program. The information contained herein is not offered as legal advice, but is instead offered for informational purposes. The information is not intended as a substitute for the legal advice of a lawyer knowledgeable of the user's individual circumstances or to provide legal advice, and therefore, you should consult your legal counsel regarding your legal obligations and the sufficiency of any form you decide to use. Accutrace makes no assurances regarding the accuracy, completeness or utility of the information. Legislative, regulatory, and case law developments regularly impact on general research, and this area is evolving quickly. Accutrace expressly disclaims any warranties, responsibility, or damages associated with or arising from the misuse of this information.

We hope you find this information helpful. Please contact our Client Services department or your account representative if you have any questions about this Information Packet.

Background Check Disclosure and Authorization Form Samples

Samples Available:

We offer 4 separate sample kits:

- 1 General Background Check Disclosure and Release (Not valid for California.)
- 2 Credit Check and Background Check Disclosure and Release (Not valid for California)
- 3 California Employers Background Check Disclosure and Release for California Employers and Applicants.
- 4 California Credit Check and Background Check Disclosure and Release for California Employers and Applicants

This kit includes No. 2 listed above:

For any of the other kits, please ask your company representative or visit our website:

<https://accu-trace.com/forms-and-instructions/>

The following are sample forms you may want to consider using as your disclosure and applicant authorization for background verifications. Prior to ordering a background report, you must (i) provide notification to the applicant/employee that a consumer report is being ordered and (ii) obtain the applicant's written authorization. We strongly urge you to consult your legal counsel regarding any questions you may have concerning this information and your compliance with the law.

In California, you must include a check box allowing the individual to request a full copy of his/her credit report and/or consumer report. You must include a reference to Accutrace's contact information. In addition, you must include a separate disclosure that explains how an individual may obtain a copy of their report. We have provided a sample of this form for California residents.

In California, an employer or prospective employer, with the exception of certain financial institutions, is prohibited from obtaining a consumer credit report, as defined by statute, for employment purposes unless the position of the person for whom the report is sought is (1) a position in the state Department of Justice, (2) a managerial position, as defined by statute, (3) that of a sworn peace officer or other law enforcement position, (4) a position for which the information contained in the report is required by law to be disclosed or obtained, (5) a position that involves regular access to specified personal information for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, (6) a position in which the person is or would be a named signatory on the employer's bank or credit card account, or authorized to transfer money or enter into financial contracts on the employer's behalf, (7) a position that involves access to confidential or proprietary information, as specified by statute, or (8) a position that involves regular access to \$10,000 or more of cash, as specified by statute. The legislation also requires the written notice informing the person for whom a consumer credit report is sought for employment purposes to also inform the person of the specific reason for obtaining the report, as specified by statute.

In Minnesota and Oklahoma, you must include a check box indicating the applicant has the right to receive a free copy of their consumer report.

In Oregon, if you are requesting credit history, you must state the reasons you are requesting such information (i.e., how that information is related to the position).

In New York, you must provide a copy of Article 23-A of the New York Correction Act with the disclosure form.

In Washington, there are many other state law compliance requirements you should be aware of; thus we strongly urge you to consult with your legal counsel regarding these obligations.

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Accutrace Sample documents should NOT be construed as legal advice, guidance or counsel. Employers should consult their own attorney about their compliance responsibilities under the FCRA and applicable state law. Accutrace expressly disclaims any warranties or responsibility or damages associated with or arising out of information provided. Employers seeking credit reports must provide additional notices pursuant to state law.

**DISCLOSURE FORM
FOR BACKGROUND CHECK**

 {insert company name} (“The Company”) may request a consumer report or an investigative consumer report about you from a consumer reporting agency (“CRA”) in connection with your application for employment, and if you are hired, may order additional consumer reports on you from such an agency for employment purposes.

A “consumer report” may include information about your character, general reputation, personal characteristics, and/or mode of living. These reports may contain information regarding your credit history, criminal history, social security verification, motor vehicle records (“driving records”).

An “investigative consumer report” is a background report that includes information from personal interviews (except in California, where that term includes background reports with or without information obtained from personal interviews). The most common form of an investigative consumer report in connection with your employment is a reference check through personal interviews with sources such as your former employers and associates, and other information sources. The investigative consumer report may contain information concerning your character, general reputation, personal characteristics, or mode of living. You may request more information about the nature and scope of an investigative consumer report, if any, by contacting the Company.

You have the right, upon written request made within a reasonable time, to request (1) whether an investigative consumer report has been obtained about you, (2) disclosure of the nature and scope of any investigative consumer report and (3) a copy of your report. These reports will be conducted by **Accutrace, Inc. 495 Highlands Blvd., Suite 106, Coatesville, PA 19320. Telephone Number: 1.888.54.TRACE; www.accu-trace.com.**

Printed Name

Signature

Date

Parent or Legal Guardian Signature
(for searches conducted on minors under the age of 18)

Date

**ACKNOWLEDGMENT AND AUTHORIZATION
FOR BACKGROUND CHECK
Page 1 of 2**

I acknowledge receipt of the separate stand alone Disclosure and certify that I have read and understand it and this authorization. I hereby authorize the obtaining of "consumer reports" and/or "investigative consumer reports" at any time after receipt of this authorization and as necessary for me to obtain employment. To this end, I hereby authorize, without reservation, any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by Accutrace, Inc. or another outside organization acting on behalf of {insert company name} , and/or the entity for whom I may be performing services, itself.

_____ I acknowledge receipt of the Disclosure Form regarding Background Checks.

_____ I acknowledge receipt of the document A Summary of Your Rights under the Fair Credit Reporting Act.

_____ I agree that a facsimile ("fax") or photographic copy of this Authorization shall be as valid as the original.

_____ I consent to have any legally required notices sent electronically.

(_____ I do) (_____ I do not) authorize you to contact, through Accutrace, Inc., *my current* employer for Employment and Reference Verifications. (*Checking "I do" will authorize inquiries to the Human Resources Department and to any listed supervisors.*)

Minnesota and Oklahoma applicants or employees only: Please check this box if you would like to receive a copy of a consumer report at no charge if one is obtained by the Company.

Massachusetts applicants or employees only: If an investigative consumer report is requested, you have the right, upon written request, to a copy of the report.

New York applicants or employees only: You have the right, upon written request, to be informed of whether or not an investigative consumer report was requested. If an investigative consumer report is requested, you will be provided with the name and address of the consumer reporting agency furnishing the report. You may inspect and receive a copy of the report by contacting that agency. By signing below, you also acknowledge receipt of Article 23-A of the New York Correction Law.

Last Name: _____ First Name: _____ Middle: _____

Signature: _____ Date: _____

New York and Maine applicants or employees only: You have the right to inspect and receive a copy of any investigative consumer report requested by the Company by contacting the consumer reporting agency identified above directly. You may also contact the Company to request the name, address and telephone number of the nearest unit of the consumer reporting agency designated to handle inquiries, which the Company shall provide within 5 days.

**ACKNOWLEDGMENT AND AUTHORIZATION
FOR BACKGROUND CHECK
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New York City applicants only: By signing this form, you further authorize the Company to provide you with a copy of your consumer report, the New York City Fair Chance Act Notice form, and any other documents, to the extent required by law, at the mailing address and/or email address you provide to the Company.

New Jersey applicants or employees only: You have the right to submit a request to the consumer reporting agency for a copy of any investigative consumer report the Company requested about you. A summary of your rights under the New Jersey Fair Credit Reporting Act is included.

Minnesota applicants or employees only: You have the right in most circumstances to submit a written request to the consumer reporting agency for a complete and accurate disclosure of the nature and scope of any consumer report ordered about you. The consumer reporting agency must provide you with this disclosure within 5 days after its receipt of your request or the report was requested by the Company, whichever date is later.

Washington State applicants or employees only: If the Company requests an investigative consumer report, you have the right, upon written request made within a reasonable period of time after receipt of this disclosure, to receive from the Company a complete and accurate disclosure of the nature and scope of the investigation requested by the Company. You also have the right to request from the consumer reporting agency a written summary of your rights and remedies under the Washington Fair Credit Reporting Act.

< Please Print Clearly >

Last Name

First Name

Middle Name

Current Address

Dates Lived Here

Previous addresses within past 7 Years (Use additional sheets if needed)

Phone Number

Date of Birth

Other Names Used (including maiden name)

Years Used

Social Security Number

Driver's License #

DL State

Degree/Diploma Type

School/University Name

Date Received

Profession

Professional License/Certification Number

State

Email address (may be used for official correspondence)

Signature: _____ **Date:** _____

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NOTICE REGARDING CREDIT CHECKS PER CITY OF NEW YORK LAW

In conjunction with my application for employment with [INSERT NAME OF COMPANY] ("The Company"), I understand that the Company intends to obtain information for employment screening purposes from a consumer reporting agency (CRA). I understand that a consumer report may be obtained from the following CRA:

Accutrace, Inc., 495 Highlands Blvd, Suite 106, Coatesville, PA 19320; Telephone at 1-888-54-TRACE; www.accu-trace.com. A copy of their privacy policy may be requested.

Pursuant to Section 8 of the City of New York Administrative Code, the Company informs you that it may obtain a credit report about you from the above named CRA because you are seeking employment in the following position(s), or for the following reason(s):

- A position with (i) signatory authority over third party funds or assets valued at \$10,000 or more, or (ii) fiduciary responsibility to the employer and authority to enter into financial agreements valued at \$10,000 or more on behalf of the employer;
- A position with regular duties allowing an employee to modify digital security systems designed to prevent the unauthorized use of the employer's or client's networks or databases;
- A non-clerical position with regular access to trade secrets or national security/intelligence information;
- The employer is required to use an individual's consumer credit history for employment purposes under state or federal law/regulations or by a self-regulatory organization (as defined by the Securities Exchange Act of 1934);
- A position as a police officer or peace officer, or various positions with a law enforcement or investigative function at the Department of Investigation or subject to background investigation by the Department of Investigation;
- A position requiring bonding under federal, state, or city law (e.g., certain positions in finance);
- A position requiring security clearance under federal or any state law.

I acknowledge receipt of the **Notice Regarding Credit Checks Per New York City Law** and **A Summary of Your Rights Under the Fair Credit Reporting Act** and certify that I have read and understand these documents. I hereby authorize the Company to obtain a credit report from the above named CRA. I further acknowledge that a telephonic facsimile (FAX) or photographic copy of this authorization shall be as valid as the original.

Printed Name

Signature

Today's Date

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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>

NEW YORK CORRECTION LAW ARTICLE 23-A

LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

Section 750. Definitions.

751. Applicability.

752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

753. Factors to be considered concerning a previous criminal conviction; presumption.

754. Written statement upon denial of license or employment.

755. Enforcement.

§750. **Definitions.** For the purposes of this article, the following terms shall have the following meanings:

- 1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.
- 2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.
- 3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.
- 4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.
- 5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§751. **Applicability.** The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§752. **Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.** No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

- 1) There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
- 2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§753. Factors to be considered concerning a previous criminal conviction; presumption. 1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

- a. The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- b. The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- c. The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- d. The time which has elapsed since the occurrence of the criminal offense or offenses.
- e. The age of the person at the time of occurrence of the criminal offense or offenses.
- f. The seriousness of the offense or offenses.
- g. Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- h. The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§754. Written statement upon denial of license or employment. At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§755. Enforcement. 1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights