

# Fair Credit Reporting Act & Driver's Privacy Protection Act Regulatory Overview

## What is the FCRA?

The Fair Credit Reporting Act (FCRA) is a federal law enacted to promote the accuracy, fairness, and privacy of consumer information contained in the files of consumer reporting agencies (CRAs).

It was intended to protect consumers from inclusion of inaccurate information in their consumer reports. The FCRA regulates the collection, dissemination, and use of consumer information.

## Who does FCRA impact?

The FCRA impacts CRAs, employers, and the consumer. While CRAs and employers have responsibilities under FCRA, consumers have rights.

## What is a consumer report?

Background screening reports are "consumer reports" under the FCRA when they serve as a factor in determining a person's eligibility for employment and they include information "bearing on a consumer's character, general reputation and personal characteristics."

## What Consumer Reports apply to J. J. Keller® Managed Services deliverables?

- › Driving Records
- › Driver Qualification Files
- › Criminal Reports
- › Employment Verification
- › Education Verification
- › Pre-Employment Screening
- › Drug & Alcohol Limited and Full Queries

## Who is a Consumer Reporting Agency (CRA)?

Any person who regularly engages in the practice of assembling information about individuals for a fee. For employment purposes, individuals referred to in the Act as "consumers" include drivers, applicants, current employees, and independent contractors.

## Why is J. J. Keller a CRA?

- Companies that sell or provide these reports are "consumer reporting agencies" under the FCRA. A company is considered a CRA when it provides information about people to employers for use in hiring or other employment decisions.
- Because J. J. Keller's Managed Services business unit provides reports that are used to qualify DOT drivers, we are a CRA.
- In addition to motor vehicle reports, employment history, and criminal reports, a driver qualification file is also considered a consumer report because our auditors are assembling and evaluating them.

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### What are J. J. Keller's requirements as the CRA?

- › Comply with all provisions of all applicable laws and regulations pertaining to the consumer reports provided by the CRA for employment purposes.
- › Educate clients about their legal responsibilities when procuring and using consumer reports for employment purposes.
- › Provide current version of all currently required federal notices, such as the notices titled:
  - Notice to Users of Consumer Reports: Obligations of Users under the FCRA; and
  - Summary of Your Rights Under the Fair Credit Reporting Act
- › Provide consumer reports that are accurate, relevant and up to date.
- › Provide consumer reports only when the client meets the permissible purpose.
- › Honor the rights of clients' applicants and employees.
- › Protect clients' consumer information and personally identifiable information (PII).
- › Assist applicants and employees who need to dispute inaccurate information in their reports.

### What are the client's responsibilities under the FCRA?

- › Must have a permissible purpose. This is defined as ordering consumer reports to evaluate an applicant for employment, promote a current employee, reassign an employee, or retain an employee. Must disclose in a separate document that a consumer report may be obtained prior to ordering the consumer report.
- › Must obtain written authorization from the consumer prior to ordering the consumer report.
- › The client must certify as part of its agreement with J. J. Keller that:
  - They have notified their applicant/employee that it will be requesting and reviewing consumer report information (disclosure statement);
  - They have obtained a signed release (authorization) to get a background report;
  - They will comply with the FCRA's requirements; and
  - They won't discriminate against the applicant/employee, or otherwise misuse the information in violation of federal or state equal opportunity laws or regulations.
- › Before a client rejects a job application, reassigns or terminates an applicant/employee, denies a promotion or takes any other adverse employment action based on information in a consumer report, it must give the applicant/employee:
  - A notice that includes a copy of the consumer report they relied on to make their decision; and
  - A copy of "A Summary of Your Rights Under the Fair Credit Reporting Act."

Giving the applicant/employee the notice in advance gives them the opportunity to review the report and dispute any inaccuracies.

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### J. J. Keller and client responsibilities

#### Disputing information in a consumer report

##### ▶ Client must:

- Provide the applicant/employee with J. J. Keller's name, address, and phone number.
- Contact J. J. Keller to open a dispute by providing their contact information as well as what information is being disputed.

##### ▶ J. J. Keller must:

- Investigate the consumer's claim to determine if an error has been made.
- Upon completion, disclose the findings of the investigation.
- If an error was made, correct all affected reports.
- Provide the client and the consumer with a copy of the updated report(s).

### What is the Driver's Privacy Protection Act (DPPA)?

The DPPA (18 U.S. Code §2721) is a federal law enacted to regulate the release and sharing of personal information – such as name, address, social security number and driver license number – assembled by the Department of Motor Vehicles (DMV).

Anyone accessing this information through the DMV must have a permissible use for this information. The permissible use that J. J. Keller's Managed Services clients qualify under is "for use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S. Code §313 – Commercial Vehicle Operators.



### About J. J. Keller

Serving more than 600,000 customers, including 90% of the Fortune 1000® companies, J. J. Keller & Associates, Inc. is the nation's leading provider of regulatory, safety and compliance solutions. Organizations of all sizes rely on our expert insights to help create safe work environments and simplify the complexities of regulatory compliance. Our diversified portfolio of solutions and services including online management tools, publications, training, forms, supplies, consulting and professional services is trusted to safeguard workers, reduce risk and build operational confidence. As a privately-held, family-owned company since 1953, we're committed to helping protect lives every day.