

REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: Applicant/Employee Investigations

POLICY: The **employer** desires to maintain a productive, efficient, effective, healthy, and safe work environment and, as a result, will conduct pre-employment background checks of applicants and current employees as necessary.

If background checks are conducted by external third parties (also called “consumer reporting agencies”), they will be governed by relevant provisions of the Fair Credit Reporting Act (FCRA) and the Fair and Accurate Credit Transactions Act (FACT). FCRA and FACT cover background checks and other investigations for prospective employees, and current employees in certain situations, such as a promotion to positions requiring additional information. FCRA and FACT specifically exclude misconduct investigations, such as illegal harassment charges.

Reports

The types of reports that may be requested from consumer reporting agencies under this policy include, but are not limited to: credit reports, criminal records checks, court records checks, driving records, and/or summaries of educational and employment records and histories. These reports or checks are also called “consumer reports.” The information contained in these reports may be obtained by a consumer reporting agency from public record sources or through personal interviews with the applicant’s or employee’s coworkers, neighbors, friends, associates, current or former **employers**, or other personal acquaintances. These are sometimes referred to as “investigative consumer reports.” Any information contained in such reports may be taken into consideration in evaluating an applicant’s or employee’s suitability for employment, promotion, reassignment, or retention.

Requirements

In order to meet the requirements of the FCRA, effective the date of this policy:

1. All applicants for employment will be required to complete a notice and authorization form concerning consumer and investigative consumer reports (reference: Notice and Authorization for Requesting Consumer and Investigative Consumer Reports). In the event of an external third party investigation, existing employees will be required to complete a notice and authorization form concerning consumer and investigative consumer reports, provided the employee has not previously completed such form.
2. The **employer** will certify to the consumer reporting agency that:
 - a. The notice and authorization requirement has been met;

- b. The information received is only used for employment purposes;
 - c. The information will not be used to violate any Equal Employment Opportunity (EEO) legislation;
 - d. Pre-adverse action requirements will be followed;
 - e. Any additional investigative consumer report disclosures, if applicable, have or will be issued within three (3) days; and
 - f. Upon request from the applicant or employee, the **employer** will comply with applicable additional disclosure requests including, but not limited to, information as to the nature and scope of an investigative consumer report.
3. The **employer** will provide a copy of the consumer report and a summary of the individual's rights under the FCRA (references: *A Summary of Your Rights Under the Fair Credit Reporting Act*; *Disclosure to Employee or Applicant of Request for Third Party Investigative Report*; *Pre-Adverse Action Notice, Adverse Action Notice*) to the applicant or employee prior to making a final adverse or negative employment decision that, in whole or in part, is influenced by a consumer report or an investigative consumer report.
4. After the **employer** has complied with item 3 above and waited a "reasonable" period of time, the **employer** may take the adverse or negative action. After taking such action, the **employer** must provide to the applicant or employee a notice of adverse action which also contains the following:
- a) The name, address, and telephone number of the consumer reporting agency;
 - b) A statement that the consumer reporting agency did not make the adverse action decisions and will be unable to inform the applicant or employee of the specific reason(s) for the adverse action;
 - c) A statement that the applicant or employee is entitled to obtain an additional free copy of the "consumer report"; and
 - d) A statement that the applicant or employee has a right to dispute the accuracy or completeness of any information in the report.
 - e) See the referenced forms in *item 3* above.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

2008

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER 308
EFFECTIVE DATE: 9-16-08