
**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 307
EFFECTIVE DATE: 08/19/08
REVISED: 10/17/17
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: APPLICANT/EMPLOYEE INVESTIGATIONS

I. 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 these 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 unlawful harassment charges. NRS 613.580 allows an employer, in limited circumstances, to consider consumer credit reports or other credit information in evaluating applicants for employment or current employees.

1. Unless, pursuant to a specific provision of state or federal law, the criminal history of an applicant for employment may be considered only after the earlier of:
 - a. The final interview conducted in person; or
 - b. A conditional offer of employment has been made.
2. The provision of subsection 1 above does not apply to an applicant for a position that is a peace officer, firefighter, or has physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information System.

Reports

The types of reports that may be requested 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 may include “consumer reports.” The information contained in these reports may be obtained 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. If this information is obtained by a consumer reporting agency 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) laws;
 - 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" within 60 days;

- d. A statement that the applicant or employee has a right to dispute the accuracy or completeness of any information in the report to the consumer reporting agency; and
- e. See the referenced forms in item 3 above.

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