

*The Background Screening Credentialing Council (BSCC) volunteer members drafted the accreditation tip for Clause 2.9 of the BSAAP Standard, version 2.0, effective April 6, 2018. This tip does not constitute a legal opinion of the BSCC.*

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**TITLE: Clause 2.9 – Client Legal Responsibilities**

*Clause: CRA must have and follow procedures to inform client that client has legal responsibilities when procuring and using consumer reports for employment purposes. CRA must recommend to client that client work with legal counsel to ensure compliance with their specific legal responsibilities.*

A **Non-Conformity** sometimes identified for this clause is the absence of specific language in a client agreement or other document signed by the client that recommends the client seek legal counsel and includes, at a minimum, six FCRA legal responsibilities of clients (as identified in the Audit Criteria) when using consumer reports for employment purposes.

The Audit Criteria for Clause 2.9 provides:

CRA must: 1) inform clients that client has legal responsibilities, and 2) advise client to consult with legal counsel. Methods include but are not limited to Client agreement, User agreement or some other document which is signed by the client and includes, but is not limited to, client acknowledgement of legal responsibilities. Per the FCRA, current legal responsibilities include: 1) having permissible purpose, 2) disclosing to consumer, 3) obtaining consumer authorization, 4) following prescribed adverse action procedures, 5) complying with all applicable legal and regulatory requirements, and 6) obtaining, retaining, using, and destroying data in a confidential manner. Auditor will seek evidence of adherence to policies and procedures.