

The Background Screening Credentialing Council (BSCC) volunteer members drafted the accreditation tip for Clause 3.2 of the BSAAP Standard, version 2.0, effective April 6, 2018. This tip does not constitute a legal opinion of the BSCC.

TITLE: Clause 3.2 – Legal Counsel

Clause: CRA must have and follow a procedure to inform client that CRA is not acting as legal counsel and cannot provide legal advice. CRA must inform client of the importance of working with counsel to develop an employment screening program specific to their needs and to ensure that client’s policies and procedures related to the use of CRA-provided information are in compliance with all applicable legal and regulatory requirements.

A **Non-Conformity** for section 3.2 may look something like the following:

“Testing of the control activity disclosed that at least one or more agreements sampled did not inform clients that they are not acting as legal counsel and cannot provide legal advice, nor did the contracts inform clients of the importance of consulting with counsel to develop an employment screening program specific to the agency’s needs, or to emphasize the necessity of working with counsel to ensure that the client’s policies and procedures related to the use of consumer reports are in compliance with applicable laws.

The Audit Criteria for Clause 3.2 of the BSAAP Standard, Version 2.0, Effective April 6, 2018 provides:

CRA must inform clients that CRA does not function as legal counsel. Methods include, but are not limited to, inclusion in Client agreement, User agreement or through some other document which is signed by the client and includes client acknowledgement. Such acknowledgment must include, but is not limited to: 1) CRA is not legal counsel and does not provide legal advice, 2) advising client of importance of working with their legal counsel to ensure overall screening program compliance, and 3) advising clients that consumer reports provided by CRA must be used in compliance with all applicable legal and regulatory requirements. Auditor will seek evidence of adherence to policies and procedures.