

Fair Credit Reporting Act (FCRA) & State Laws – In-Depth Lesson Plan

Objective:

- Understand the **Fair Credit Reporting Act (FCRA)** and its application to **consumers and credit reporting agencies (CRAs)**.
- Examine **how state laws exceed FDCPA** in protecting consumers from unfair debt collection.
- Identify **compliance strategies** for collectors and creditors.

 **Total Training Time: 1 Hour**

1. Fair Credit Reporting Act (FCRA) & Debt Collection (15 min)

Who Is Covered Under the FCRA?

FCRA Applies Only to "Consumers"

- The FCRA applies to **individuals only**—not businesses, partnerships, corporations, or nonprofits.
- A **consumer** is defined as a **natural person** in the Act.
- The **definition of “consumer report” determines if a transaction is covered**, meaning some business-related transactions are **excluded**.
- Some courts have ruled that if a person is not the **subject of a consumer report**, they are **not a “consumer”** under the FCRA.

Who Are Consumer Reporting Agencies (CRAs)?

- The **three major credit bureaus (Experian, TransUnion, and Equifax)** are the primary CRAs.
- **Local and specialty CRAs** also exist, often focusing on **mortgage credit or public records reporting**.
- **Background check agencies** used by employers and landlords **may also qualify as CRAs**, meaning they must comply with FCRA rules.

Regulatory Example:

- The **FTC has warned mobile app developers** that screening apps providing criminal background reports **may qualify as CRAs** and be subject to **FCRA requirements**.

<i>Failure to Remove Remarks from Credit Report</i>	<i>N/A</i>	<i>If a debt is disputed or settled, the collector must update or remove derogatory credit remarks as required.</i>	<i>Failing to update reports can lead to Fair Credit Reporting Act (FCRA) violations.</i>
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Permissible & Impermissible Uses of Consumer Reports

<i>Impermissible Pull of Credit Report</i>	<i>FCRA (15 U.S.C. § 1681b)</i>	<i>Debt collectors may only access credit reports for permissible purposes, such as collection on a valid debt.</i>	<i>Unauthorized access can lead to lawsuits, regulatory fines, and consumer complaints.</i>
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Permissible Purposes (FCRA § 604)

- Lenders considering a credit application.
- Employers performing background checks (with consumer consent).
- Landlords screening tenants.
- Insurance companies underwriting policies.
- Debt collectors trying to locate a consumer.

Impermissible Purposes (Violations of FCRA)

-  Pulling a consumer's report **without a legitimate business need**.
-  Accessing credit reports **to spy on someone (e.g., ex-spouse, neighbor, celebrity)**.
-  Using **name-only matching** to generate reports that may contain errors.

Example Violation:

- A credit bureau **automatically provided updates** on consumers' reports to **insurance companies**—even when the consumer was not actively applying for coverage.
 - This was **found to be an FCRA violation** because the insurance companies **no longer had a permissible purpose** to receive the reports.
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✓ The “Reason to Believe” Standard & CRA Responsibilities

📌 CRAs Must Have a “Reason to Believe” Before Releasing Reports

- A CRA may only furnish a report if it has reason to believe the user has a **permissible purpose**.
- If the CRA suspects misuse, it must **investigate before releasing the report**.
- **Disclaimers do not excuse a CRA** from ensuring a permissible purpose exists.

📌 CFPB 2022 Advisory Opinion:

- A CRA cannot provide reports that contain information on another consumer unless the entire report pertains to the consumer being investigated.
 - The use of weak personal identifiers (e.g., name-only matching) does not satisfy the “reason to believe” standard.
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2. State Debt Collection Laws That Go Beyond FDCPA (25 min)

New York Debt Collection Laws vs. FDCPA

Regulation	New York Law	How It Goes Beyond FDCPA
Amended Rule 5-77(b)(1) – Excessive Communications	Limits debt collectors to 3 communications per 7-day period (vs. FDCPA’s 2 per 7 days).	FDCPA does not specify a frequency cap beyond "harassment"—NYC law imposes a clear numerical limit .
Amended Rule 5-77(f)(4) – Debt Validation Response Time	Debt collectors must respond to debt validation letters within 30 days (excludes weekends & holidays).	FDCPA requires validation upon request but does not specify a response time —NYC sets a strict 30-day deadline .
Amended Rule 5-77(f)(8) – Notice of Unverified Debt	If a debt is not verified within 45 days , the collector must issue a Notice of Unverified Debt and cease collection efforts .	FDCPA does not require a specific deadline for verification—NYC mandates a 45-day cutoff .

23 CRR-NY 1.3(b) – Disclosure for Expired Debt	Collectors must notify consumers if a debt is past the statute of limitations and explain that paying may restart it .	FDCPA does not require disclosures about time-barred debt —NY mandates full transparency .
Amended Rule 5-77(b)(6) – Workplace Communication Restrictions	Collectors must obtain consent before contacting a consumer at their work email or office phone .	FDCPA prohibits workplace contact only if the collector knows it's prohibited —NYC requires explicit consent first .

Florida Debt Collection Laws vs. FDCPA

Regulation	Florida Law	How It Goes Beyond FDCPA
Fla. Stat. § 559.72(14) – Publishing Debtors' Names	Prohibits debt collectors from publishing or threatening to publish a list of debtor names, commonly referred to as a "deadbeat list."	FDCPA only prohibits public shaming indirectly through "unfair or unconscionable" collection practices—Florida law explicitly bans debtor name publication .
Fla. Stat. § 559.72(17)(a) & (b) – Calling Outside Permitted Time Zone	Requires debt collectors to presume the local time zone based on the consumer's area code or last known residence, unless they have reason to believe the consumer is in a different time zone.	FDCPA only prohibits calls before 8 AM or after 9 PM without specifying how to determine the correct time zone —Florida law adds clarity and stricter time zone rules .
Fla. Stat. § 559.72(3) – Failure to Disclose Debt Disputes	Prohibits debt collectors from telling a debtor that their reputation for creditworthiness will be affected without also informing them that they have the right to dispute the debt .	FDCPA requires debt collectors to notify consumers of their right to dispute the debt but does not require them to explicitly mention the dispute in all subsequent communications about credit reporting.

Fla. Stat. § 559.552 – Florida Consumer Collection Practices Act (FCCPA)	Ensures that Florida’s consumer collection laws add to and do not override FDCPA. If state law is more protective , it prevails over federal law.	FDCPA sets a minimum standard nationwide, but Florida law explicitly allows for stronger state protections when consumer rights are at stake.
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California Debt Collection Laws vs. FDCPA

Regulation	California Law	How It Goes Beyond FDCPA
Cal. Civ. Code § 1788.14(d) – Failure to Remove Disputed Debt from Credit Report	Debt collectors must notify credit bureaus within 10 business days if a consumer disputes a debt. They must also conduct a review and cannot resume collection without a good-faith basis .	FDCPA requires debt collectors to cease collection upon dispute , but does not require them to notify credit bureaus or complete a mandatory review within 10 days.
Cal. Civ. Code § 1788.16 – Threatening Legal Action Without Intention or Authority	Prohibits debt collectors from sending communications that falsely appear to be legal documents or falsely claiming they are government-authorized .	FDCPA prohibits false or misleading legal threats , but California imposes criminal penalties (misdemeanor, up to \$2,500 fine and/or 6 months in jail).
Rosenthal Fair Debt Collection Practices Act (RFDCPA)	Extends FDCPA-like protections to original creditors , meaning banks, credit card companies, and lenders must comply with the same collection laws as third-party collectors.	FDCPA only applies to third-party debt collectors , but California’s RFDCPA expands protections to original creditors .

3. Q&A & Discussion (20 min)

1. What’s one way your state’s laws go beyond FDCPA?
2. What is a major risk for collectors who violate FCRA?
3. How can consumers use state laws to protect themselves from unfair debt collection?

Day 2 – Q&A & Discussion Answer Key

1. What's one way your state's laws go beyond FDCPA?

✓ Example Answer:

- In **New York**, the statute of limitations on consumer debt lawsuits is **only 3 years**, which is **shorter than in many other states**.
- In **California**, the **Rosenthal Fair Debt Collection Practices Act** extends FDCPA-like protections to **original creditors**, meaning **banks and credit card companies must follow similar rules as debt collectors**.
- **Texas and Florida** prohibit the use of **profane language and aggressive harassment**, even though the **FDCPA does not explicitly prohibit profanity**.

2. What is a major risk for collectors who violate FCRA?

✓ Example Answer:

- Debt collectors who **report inaccurate information** or **fail to investigate disputes** within **30 days** can be **sued for damages** under FCRA.
- The **CFPB and FTC** can impose **heavy fines** for repeated violations, such as **misreporting delinquent accounts or re-aging debts**.
- Consumers can **file lawsuits** and collect **actual, statutory, and punitive damages**, plus **attorney's fees**.

🔥 Example Case:

- A **major debt buyer** was **fined in 2022** for failing to **correct credit reports** after **consumer disputes**, resulting in thousands of incorrect credit scores.

3. How can consumers use state laws to protect themselves from unfair debt collection?

✓ Example Answer:

- **Check state-specific protections:** Some states, like **New York and California**, **limit collection lawsuits earlier** than FDCPA requires.
- **Challenge improper collections:** In states like **Texas**, debt collectors **cannot sue on time-barred debts**, so consumers can **use this as a legal defense**.
- **File complaints with state regulators:** Many states allow consumers to **report debt collectors to the state attorney general**, which can result in **investigations and penalties**.

📌 Bonus Tip:

- If a consumer is **harassed by an original creditor**, they should check if their **state extends FDCPA protections to original creditors (California, Florida, etc.)**.
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Final Notes & Next Steps

- 📌 Stay updated on **state debt collection laws**—they change frequently!
- 📌 Ensure **FCRA compliance** when reporting consumer debts.
- 📌 Train staff to **adapt practices for different state regulations**.

Day 2: Homework

Assignment Questions:

1. Who is covered under FCRA, and how is a “consumer” defined?
2. What is the difference between a third-party debt collector and an original creditor?
3. List three examples of an impermissible use of a consumer report under FCRA.
4. What is the "reason to believe" standard, and how does it apply to credit reporting agencies?
5. Which state has laws that offer stronger consumer protections than FDCPA, and how?

Answer Key – Day 2 Homework

1. Who is covered under FCRA, and how is a “consumer” defined?

✓ Answer:

- FCRA applies only to individuals, not businesses, corporations, or nonprofits.
 - A consumer is defined as a natural person in the Act.
 - Business transactions are generally excluded, unless they involve personal credit reports.
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2. What is the difference between a third-party debt collector and an original creditor?

✓ Answer:

Collector Type	Covered by FDCPA?	Definition
Third-Party Debt Collectors	✓ Yes	Businesses that collect debts on behalf of another creditor.
Debt Buyers	✓ Yes	Companies that purchase delinquent debts and try to collect.
Original Creditors	✗ No (Generally Not Covered)	Banks, lenders, or businesses that issued the credit initially.

🚨 Exception:

- Some states, like California & Florida, apply FDCPA-like restrictions to original creditors.
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3. List three examples of an impermissible use of a consumer report under FCRA.

✓ Answer:

1. A landlord pulls a tenant's credit report out of curiosity but has no pending application.
2. A debt collector accesses a consumer's credit report without a valid debt or permissible purpose.
3. A CRA provides an unsolicited update on a consumer's credit report to an insurance company that is not actively considering them for coverage.



Example Violation:

- In one case, a CRA automatically provided reports to insurance companies, even when the consumer was not actively applying—this was found to be an FCRA violation.
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4. What is the "reason to believe" standard, and how does it apply to credit reporting agencies?



Answer:

- A CRA may only furnish a report if it has reason to believe the user has a permissible purpose.
- If the CRA suspects misuse, it must investigate before releasing the report.
- Disclaimers do not excuse a CRA from ensuring a permissible purpose exists.



CFPB 2022 Advisory Opinion:

- CRAs cannot use weak personal identifiers (like name-only matching) to assume they have a reason to believe the information is accurate.
 - If a consumer report includes data on another individual, it is a violation of FCRA.
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5. Which state has laws that offer stronger consumer protections than FDCPA, and how?



Answer (Example States):