

Student Services
DRAFT as of 6/4/13

**BP 5800 PREVENTION OF IDENTITY THEFT IN STUDENT
FINANCIAL TRANSACTIONS**

Reference:

15 U.S. Code Section 1681m(e), Fair and Accurate Credit Transactions Act (FACT Act or FACTA)

NOTE: The language in red, underlined ink is legally required.

The District is required to provide for the identification, detection, and response to patterns, practices, or specific activities (“Red Flags”) that could indicate identity theft of students when the District serves as a creditor in relation to its students. When applicable, the Chancellor is directed to develop procedures to implement an Identity Theft Prevention Program (ITPP) to control reasonably foreseeable risks to students from identity theft.

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. This document was reviewed by the administrative team on June 4, 2013.

Date Adopted:

(This is a new policy recommended by the Policy and Procedure Service and its legal counsel)

Legal Citation for BP 5800

The **Fair and Accurate Credit Transactions Act of 2003** (FACT Act or FACTA, [Pub.L. 108-159](#)) is a [United States federal law](#), passed by the [United States Congress](#) on [November 22, 2003](#),^[1] and signed by President [George W. Bush](#) on [December 4, 2003](#),^[2] as an amendment to the [Fair Credit Reporting Act](#). The act allows consumers to request and obtain a free [credit report](#) once every twelve months from each of the three nationwide consumer credit reporting companies ([Equifax](#), [Experian](#) and [TransUnion](#)). In cooperation with the [Federal Trade Commission](#), the three major [credit reporting agencies](#) set up the website, [annualcreditreport.com](#), to provide free access to annual credit reports.^[3]

The act also contains provisions to help reduce [identity theft](#), such as the ability for individuals to place alerts on their credit histories if identity theft is suspected, or if deploying overseas in the military, thereby making fraudulent applications for credit more difficult. Further, it requires secure disposal of consumer information.

Red Flag Rules

Financial institutions face a mandatory deadline of November 1, 2008, to comply 3 new FACT Act regulations referred to as the **Red Flag Rules**,^[4] section 114 and 315 of the Fair and Accurate Credit Transactions (FACT) Act.

According to a Business Alert issued by the Federal Trade Commission in June 2008,^[5] the Red Flag Rules apply to a very broad list of businesses including “financial institutions” and “creditors” with “covered accounts”. A “creditor” is defined to include “lenders such as banks, finance companies, automobile dealers, mortgage brokers, utility companies and telecommunications companies”. However, unfortunately this is not an all-inclusive list.

The regulations apply to all businesses that have “covered accounts”. A “covered account” includes any account for which there is a foreseeable risk of identity theft. For example, credit cards, monthly billed accounts like utility bills or cell phone bills, social security numbers, drivers license numbers, medical insurance accounts, and many others. This significantly expands the definition to include all companies, regardless of size that maintain, or otherwise possess, consumer information for a business purpose. Because of the broad definitions in these regulations, few businesses will be able to escape these requirements.

There are three new regulations:

- One that requires financial institutions or creditors to develop and implement an Identity Theft Prevention Program in connection with both new and existing accounts. The Program must include reasonable policies and procedures for detecting, preventing, and mitigating identity theft;
- Another that requires users of consumer reports to respond to Notices of Address Discrepancies that they receive; and

- A third that places special requirements on issuers of debit or credit cards to assess the validity of a change of address if they receive notification of a change of address for a consumer's debit or credit card account and, within a short period of time afterward they receive a request for an additional or replacement card for the same account.

Another key item was the requirement that mortgage lenders provide consumers with a Credit Disclosure Notice that included their credit scores, range of scores, credit bureaus, scoring models, and factors affecting their scores. This form is typically available from credit reporting agencies, and many will send this directly to the consumer on the lenders' behalf.

References

1. Library of Congress THOMAS, searched for H.R. 2622 (108th Congress) Major Congressional Actions on September 7, 2008
2. White House fact sheet, December 4, 2003
3. Facts for Consumers, Federal Trade Commission, March 2008
4. Red Flags Resource Center
5. FTC Business Alert, Federal Trade Commission, June 2008