
Best Practices for Hosting Youth Camps on Campus

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June 2005

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Executive Summary

Youth camps including summer sport camps, science seminars, theater and other fine arts workshops are proliferating across college campuses nationally for many reasons. Some schools sponsor the camps, while others prefer to lease the facilities to outside sponsors. Regardless of the organizational structure, having 300 to 1,000 minors on campus participating in physical activities or scientific experimentation, creates a risk in the campus profile that is can be difficult to manage. Schools that sponsor camps usually retain all of the income and expense including the burden of the added risk. On the other hand, some schools prefer to contract with the sponsor, typically a coach, transfer the majority of the risk and some financial gain. Regardless of the preference, the university must manage the risk, control the activities permitted on campus and participant behavior, and maximize the success for the sponsor. A single unfavorable event on campus will likely receive acute media attention regardless of who provides the insurance for the event.

In this **BEST PRACTICES** guide you will find sample:

- Organizational Structures that facilitate risk management
- How schools have assigned administrative responsibilities
- Examples of Insurance Requirements for non-sponsored programs
- Sample Contracts
- How to control risk at various facilities
- How to successfully and safely administer a camp program

In the Appendices you will find copies university **DOCUMENTS** for:

- Manual for summer Camp administration
- Sample contracts
- Sample Acknowledgement of Risk and Medical informed Consent forms
- Sample camp safety documents
- Camp literature
- Material for Safe Coaching

Organization

- The Department hosting the Youth Camp (Athletics, Science or Fine Arts, etc.) appoints an individual to administer the program and coordinate communications, scheduling, and oversight of the sponsored activities.

- A risk management committee is created to provide guidances and establish school policy and procedures to foster enjoyable, successful and profitable camps.

- The risk management committee participants include coordinations from:
 - ◆ Each department hosting an activity (athletics, recreation, science, fine arts, drama, etc.)
 - ◆ General Counsel's office
 - ◆ Insurance/Risk management office
 - ◆ Conferences Services
 - ◆ Facilities
 - ◆ Housing Public Safety
 - ◆ Occupational Safety
 - ◆ Student Health
 - ◆ Business Office

Responsibilities

- Youth Activities Risk Management Committees
 - ◆ Reviews existing campus policy, guidelines and procedures for sponsored and contracted youth camps.
 - ◆ Upon conclusion of the summer camp season, the risk management committee reviews the success of the most recent summer in conjunction with assessing the need to revise existing guidelines and procedures including:
 - injury and illness experience of participants;
 - unfavorable events or situations experienced;
 - issues and problems encountered by coaches, faculty and contracted sponsors;
 - changes in recent case law or events experienced by other schools;
 - review the existing “informed consent and acknowledgement of risk documents” for necessary enhancements;
 - and discuss specific activities that present unusual problems and concerns.
- Annually, the Risk Management Committee collects an inventory of planned summer, winter and other camps hosted throughout the year, and reviews the inventory and planned activities such as off-campus field trips, use of recreational facilities such as fitness and aquatic centers, etc.
- The Risk Management Committee prepares and publishes a manual outlining
 - ◆ Guidelines for sponsoring youth activities
 - ◆ Guideline for others contracting the use of campus facilities for non-sponsored programs

- ◆ Training requirements for campus coaches and counselors
 - Bloodborne Pathogens
 - Actions in the event of an injury/illness
 - Counselor and participant injury and illness recordkeeping and reporting
 - Controlling participant behavior including hazing

- ◆ Orientation requirements for participants
 - Camp Rules and Regulations
 - Fire safety and evacuation for overnight participants
 - Swim test for pool, boating facilities

- ◆ Emergency Preparedness Requirements
 - Injury or illness response
 - Emergency evacuation
 - Lightning and other foul weather plans
 - Homesick youths

- ◆ Insurance requirements
 - Workers' Compensation
 - Liability Insurance
 - Participant Medical Insurance
 - Auto Insurance requirements for bus charters

- ◆ Contract requirements
 - Acknowledgement of Risk
 - Informed consent for emergency medical care
 - Indemnification from non-sponsored camp programs
 - ❖ Housing
 - ❖ Food service
 - ❖ Medical care

- insurance requirements
- Safety performance requirements of the contractor

- ◆ Identifies the types of events that must be reported to Public Safety and Risk Management regardless of severity.

- ◆ Assures a safe drop-off, pick up zone is available for day campers.

- ◆ Define required participant to counselor ratios

- ◆ Define campus policy on finger print checks for all camp counselors

- ◆ Administers contracts and use of facilities with non-sponsored program hosts

- ◆ Schedules housing, food services, and use of facilities to avoid conflicts

- ◆ Communicates with and advises affected departments regarding camp activity schedules

- ◆ Retains certificates of insurance submitted by leasees

- General Counsel's Office
 - ◆ Reviews camp advertising literature

 - ◆ Reviews contractual language for
 - Acknowledgement of Risk Agreement
 - Medical Care Informed Consent
 - Indemnification language
 - Program safety performance requirements

- Insurance/Risk Management Office
 - ◆ Recommends minimum insurance requirements for non-sponsored programs
 - ◆ Receives copies of incident/injury reports involving camp participants
 - ◆ Prepares and submits claim detail to the respective insurers
 - ◆ Considers the need to purchase a supplementary Participant Health and Medical Insurance program and supplementary camp liability insurance to protect the deductible.
 - ◆ Considers the need for a “camp specific” insurance certificate (Example: NIKE hosts a huge number of camps nationally, the insurance could be consumed in any given year, “camp specific” insurance will assure \$5 or \$10 million is available for the camps at your school.)
 - ◆ Keeps the Athletic and other departments informed of the liability issues related to hosting youths on campus.
- Housing Office
 - ◆ Prepares information regarding fire and life safety in the residence halls for over night camp program distribution to parents and participants and review during the first day orientation.
 - ◆ Conducts the fire drill for over-night camp sponsors as part of the orientation
- Public Safety
 - ◆ Prepares to receive and tend to campers that parents forgot to pick-up at the end of the day
- Occupational Safety
 - ◆ Reviews regulatory compliance training requirements for sponsored camp employees
 - Bloodborne Pathogens
 - Emergency evacuation

- Department Coordinator
 - ◆ Administers the school application for accreditation by the American Camping Association
 - ◆ Prepares a plan to assure Emergency Medical Care is available
 - ◆ Assures a pre-camp inspection of the facilities and equipment is conducted
 - ◆ Assures drinking water and toilet facilities are available at off-campus sites
 - ◆ Coordinates a review of participant and counselor health histories by school medical staff
 - ◆ Assures individual with special medical needs are identified and made known to camp administrators
 - ◆ Retains emergency contact information for parents
 - ◆ Coordinates emergency contact with parents and campus crisis communications
 - ◆ Oversees the orientation and training of camp counselors

 - ◆ Prepares an orientation for participants that includes:
 - Camp Rules and Regulations
 - Facilities and activities that are not permitted
 - Camp harassments policy (hazing and sexual harassment)
 - Policy on alcohol and illicit drug consumption
 - Camp security
 - Emergency evacuation procedures
 - Inclement weather program
 - How to report injury or illness
 - How to report a hazard

- Camp Administrator (host coach, faculty)
 - ◆ Assures sufficient time is allocated to the participant orientation and employee training programs

 - ◆ Assures facilities are safe and in good condition

- ◆ Prepares an Inclement Weather Agenda
- ◆ Assures emergency medical services are available
- ◆ Maintains an Injury/Illness/Incident log including
 - Names of participants involved
 - Nature of the injury, illness or incident
 - How it occurred
 - Emergency action taken immediately
 - Other actions taken
 - Narrative section to expand in detail
- ◆ Notifies the Risk Management office in the event of a serious incident
- ◆ Assures sufficient water and rest is available to participants
- ◆ Assures a minimum of “free time” is available to participants
- ◆ Assures all permission slips, medical forms, consent forms, and emergency contact information are signed by the participant and parent/guardian prior to allowing the participant to engage in activities
- ◆ Assures appropriate and expeditious action is taken for rule violations or other unacceptable behavior
- ◆ Assures participants are supervised 100% of the time

Camp Insurance Requirements

- Non-sponsored Camps
 - ◆ Minimum \$2,000,000 Comprehensive General Liability

 - ◆ Workers' Compensation and Employers' Liability Insurance, Statutory Limits
(Note, many camps hire the counselors as independent contracts and do not purchase workers' compensation insurance for them. Additional, the camp is often operated as a proprietorship and the owner may not be eligible for workers' compensation benefits. However, they can enroll the counselors in the participant medical and injury insurance program purchased on behalf of the camp.)

 - ◆ Minimum \$1,000,000 Automobile Liability

 - ◆ Participant medical and accident insurance
Note, the National Association of Collegiate Athletic Directors has created a group insurance program for sport camp sponsors. Cost is approximately \$.59 cents per day per participant for \$25,000 medical and limit, \$2,000,000 program liability limit, with an option to purchase an additional \$1,000,000 catastrophic medical/injury coverage, per participant all for less than \$1.00 per day per participant.)

- Sponsored Camps
 - ◆ Personal health/medical insurance for "unpaid, volunteer" counselors

 - ◆ Consider enrolling "volunteers" in the school workers' compensation program

 - ◆ Considers purchasing participant medical and accident insurance and not be concerned with the administration of the availability of existing participant insurance.

 - ◆ Considers purchasing supplementary comprehensive liability insurance, \$2,000,000 limit for sport camps

Camp Contracts

- Non-sponsored activities
 - ◆ The contract contains an indemnification favoring the university, all trustees, employees, agents of the university
 - ◆ The indemnification extends to the use of any/all facilities, food services, incidental medical care, premises security, etc.
 - ◆ Require participant orientation to:
 - rules and regulations
 - fire and personal safety, evacuation
 - how to report injuries, illnesses, incidents
 - ◆ Require sponsor to:
 - Provide for on-site medical care (some schools afford the service under contract)
 - Report all hospitalizations immediately
 - Prepare incident reports and submit a summary at the end of the camp
 - Perform field inspections daily
 - Provide a copy of the camp Safety Management Plan
 - ✓ Orientation for Counselors
 - ✓ Orientation for Participants
 - ✓ Emergency medical preparedness plan
 - ✓ Inclement weather agenda

Camp Facilities

- All related facilities, playing fields, laboratories, workshops, recreational facilities are inspected for safety prior to the start of the camp and daily thereafter during the camp
- Damage and hazards are reported to facilities or the appropriate department immediately and participants are not allowed near the hazard
- Male and female over-night participants are housed in separate residence halls
- Each over night participant is provided an individual key and lanyard
- Free swim time is scheduled to avoid overcrowding. The university provides a sufficient quantity of certified lifeguards; however each camp is required to provide sufficient participant supervision.
- A safe drop-off and pick up location is available for day campers
- Camp Rules and Regulations include at minimum:
 - ◆ Prohibit cooking and candles of any kind in residence halls
 - ◆ Prohibit participants from bringing air conditioners and refrigerators to the camp (window fans are okay)
 - ◆ Prohibited permissible activities during free time
 - ◆ University policy on harassment, sexual harassment and hazing
 - ◆ Prohibit consumption of alcohol, illicit drugs, and tobacco
 - ◆ Communicate disciplinary action to be taken including expulsion

Camp Administration

- Counselor to participant ratio of 1:10 for age 15 and older, 1:8 for age 11-14, 1:6 for age 8-10
- For sponsored programs, the school physician or nurse reviews medical issues relayed in medical consent forms, discusses the issue with the camp administrator, telephones the parent to discuss the issue further if necessary, but maintains medical privacy for the individual involved.
- If a parent visits mid-week and wants to take the participant off-site, the parent must sign the child out of camp and report/sign upon return
- Qualified medical services are available on site
- The camp administrators have ability to report emergency by wireless telephone or radio communications
- Employee coaches and counselors are screened including:
 - ◆ Application
 - ◆ Interview
 - ◆ Reference Check
 - ◆ Fingerprint/criminal check
 - ◆ Motor vehicle record check, if necessary
- A swim test administered by certified lifeguards is administered prior to permitting use of the recreational pool, and if the camp involves any aquatic activities (crew camp, sailing, etc.)
- Non-swimmers are restricted to the shallow side of the pool. Bright colored wristbands are issued to those passing the swim test.

- Participants in sailing and rowing camps are required to wear coast guard certified life vests on the water (camp should be technique, not performance oriented)
- Participants are grouped by age, skill level and size
- The drop-off, pick-up sites for day campers are supervised by counselors. Allowable drop-off and pick-up times are published in camp literature
- Arrangements are made to pick up participants at security should the parent be late
- If participant are observed using damaged or substandard gear they are removed from participation until it can be replaced
- Overnight camps are to participants age 11 or older
- The school sponsoring youth camps applies for inspection and certification by the American Camping Association

Camp Literature

- Contracted camps not sponsored by the university are not permitted to use the school name in camp advertising (some schools require the sponsor to state “not sponsored by ABC University” in the advertising literature enhancing the defense posture for claims arising out of non-sponsored activities.)
- The university requires the camp sponsor to submit copies of advertising literature for review prior to agreeing to a facility lease.
- If the camp permits unsupervised free time (typical of 2-4 week camps), advertising literature and the acknowledgement risk clearly communicates that fact.
- If participants are required to bring their own equipment and industry certifications exist for the required equipment, camp literature should state certified equipment must be provided.

Appendix H

Summary of Laws Applicable to Background Screening

Legal compliance in the background screening industry is very important. Failure to comply can lead to lawsuits and potential judgments against employers and background screening companies so it is important to know the regulations governing the background screening process. The most prominent legislation involving background screening includes:

The Federal Fair Credit Reporting Act ([FCRA](#))

The FCRA was enacted to protect the rights of individuals by promoting accuracy, fairness, and privacy of information obtained by Consumer Reporting Agencies (CRA). The original intent of the FCRA was to govern the activities of the major credit bureaus in this country that gather and provide financial information about individuals - such as their credit rating and Bankruptcy History. The FCRA was later amended to include Consumer Credit Reporting Agencies that perform pre-employment screening services. A criminal background check is considered a regulated consumer report.

The Driver's Privacy Protection Act ([DPPA](#))

The DPPA was originally enacted in 1994 to protect the privacy of personal information assembled by State Department of Motor Vehicles (DMVs). The DPPA prohibits the release or use by any State DMV (or any officer, employee, or contractor thereof) of personal information about an individual obtained by the department in connection with a motor vehicle record to all unauthorized persons without a pre-determined permissible purpose. The designated "Fleet Safety Administrator" is permitted to review Motor Vehicle Records (MVRs) on behalf of the organization.)

ADA Compliance ([ADA](#))

It is important that employers using background screening reports operate in compliance with the Americans With Disabilities Act (ADA). The ADA prohibits employers from discriminating against people with disabilities who are qualified to perform essential job functions. To ensure consistency and compliance with the ADA, it is the recommendation that all employers maintain, and enforce a screening policy as part of their hiring protocol. .

State Law Compliance

The Federal Fair Credit Reporting Act stipulates that state law takes precedence over the FCRA if the law or civil code provides greater protection to the consumer. In most cases the state laws that apply to this condition in the FCRA involve the time period for which criminal conviction information can be reported. Other state laws include a modification of the Consumer Authorization Disclosure process. The table below lists the twelve states that stipulate only a 7-year period to report criminal conviction information, wage exceptions if applicable, and a link to the respective state civil code.

State	Minimum Salary	Code
California	No Exception	Civil Code Sections 1785.13.6 & 1786.18.7
Colorado	\$75,000	Title 12 Article 14.3 Section 105.3
Kansas	No Exception	Chapter 50 Article 7 Section 704
Maryland	\$20,000	Title 14 Subtitle 12 Section 1203
*Massachusetts	No Exception	Title 15 Chapter 93 Section 52
Montana	No Exception	Title 31 Chapter 3 Section 112
Nevada	No Exception	Title 52 Chapter 598C Section 150

New Hampshire	No Exception	Title 31 Chapter 359-B Section 5
New Mexico	No Exception	Chapter 56 Article 3 Section 6
New York	\$25,000	Article 25 Section 380-j
Texas	\$75,000	Chapter 20 Section 20.05
Washington	\$20,000	Title 19 Chapter 182 Section 040

- Massachusetts limits reporting of misdemeanors to 5 years and does not allow the following crimes to be reported:
 - First conviction misdemeanors for: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace.

Employment Drug Screening Compliance

Service providers should be in compliance with the regulations published by the following organizations:

- Substance Abuse Program Administrators Association (SAPAA)
- Drug and Alcohol Testing Industry Association (DATIA)

Delaware

Delaware does not statutorily limit the use of criminal background checks for hiring purposes. Still, employers there are cautioned that the Equal Employment Opportunity Commission (EEOC) contends that employers may not automatically bar applicants whose criminal background reveals a mere arrest record. Instead, the EEOC requires the employer to evaluate the arrest and determine whether the conduct for which the applicant was arrested is both job-related and relatively recent. The EEOC's position regarding criminal convictions is similar: an

employer cannot bar all applicants with a conviction record absent business necessity. The state is not obligated to reveal an arrest record that has been expunged.

Criminal background checks laws cover employment in:

- Public schools;
- Child care facilities;
- Health facilities;
- Home health agencies;
- Nursing homes;
- Security guards;
- Private investigators;
- Ambulance attendants, paramedics and emergency medical technicians; and
- Correction officers.

Delaware Code tit. 11 4374(e)

Title 11, Crimes and Criminal Procedure, Part V Law-Enforcement Administration 85 State Bureau of Identification

Subchapter V. Criminal Background Check for Child Care Providers

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Children" means persons who are less than 18 years old;
- (2) "Child care provider" means any child care facility which by law is required to be licensed or any facility registered and eligible for Federal Child Care Development Block Grant funds;
- (3) "Child sex abuser information" shall have the meaning prescribed by § [8550\(3\)](#) of this title;
- (4) "Person seeking employment with a child care provider" means any person seeking employment for compensation with a childcare provider or any person who for any reason has regular direct access to children at any facility referred to in subdivision (2) of this section.
 - (a) Anything contained in subchapter I of this chapter to the contrary notwithstanding, the State Bureau of Identification, hereinafter referred to as the "Bureau" shall furnish information pertaining to the identification and criminal history record of any person seeking employment with a child care provider, provided that the person seeking employment with a child care provider submits to a reasonable procedure established by standards set forth by the Superintendent of State Police to identify the person whose record is sought. Such procedure shall include the fingerprinting of the person seeking employment with a child care provider, and the provision of such other information as may be necessary to obtain a report of the person's entire criminal history record from the State Bureau of Identification and a

report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544.

- (1) Any person seeking employment with a child care provider; and/or
 - (2) Child care providers for the purpose of obtaining such background information relating to the employment requirements for the person whose record is sought; and/or
 - (3) The Department of Services for Children, Youth and Their Families for the purpose of determining the suitability for child care facility licensing.
- (c) Any person seeking employment with a child care provider shall as a condition of employment provide to such child care provider prior to employment, the person's identification and criminal history record, if any, as the same appears on file with the State Bureau of Identification.
 - (d) Notwithstanding any provision to the contrary, the information to be furnished by the Bureau shall include child sex abuser information. The Division of State Police shall be the intermediary for purposes of this section.
 - (e) (e) Costs associated with obtaining said information and child sex abuser information shall be borne by the State.
 - (f) (f) No person seeking employment with a child care provider shall be hired by the child care provider if such person seeking employment has been convicted of having committed a crime of child sex abuse as defined in § [8550\(2\)](#) of this title.

Subchapter VI. Criminal Background Check for Public School Related

Employment<http://www.delcode.state.de.us/title11/c085/sc06/>

- (a) Any person seeking employment with a public school shall be required to submit fingerprints and other necessary information in order to obtain the following:
 - 1) Report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person.
 - 2) 2) A report of the individual's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 [28 U.S.C. § 534]. The State Bureau of Identification shall be the intermediary for the purposes of this section and the public school shall be the screening point for the receipt of said federal criminal history records.
 - (a) The Department may conduct a criminal history background check pursuant to the procedures set forth in [Chapter 85](#) of [Title 11](#) for the purposes of employment or contractual employment of any school bus driver.

<http://www.udel.edu/teachered/sttch/background.html>

TITLE 26 - PUBLIC UTILITIES

3. THE DEPARTMENT SHALL ENSURE THAT ALL NEW COMMUNITY AND NON-TRANSIENT NON-COMMUNITY PUBLIC WATER SYSTEMS COMMENCING OPERATION AFTER OCTOBER

1, 1999, DEMONSTRATE TECHNICAL, MANAGERIAL AND FINANCIAL CAPACITY TO OPERATE IN COMPLIANCE WITH STATE REGULATIONS GOVERNING PUBLIC DRINKING WATER SYSTEMS AND THE FEDERAL SAFE DRINKING WATER ACT [42 U.S.C. § 300f, ET SEQ.]. IT IS THE PURPOSE OF THIS SUBPARAGRAPH TO ENSURE THAT THE DEPARTMENT HAS ADEQUATE INFORMATION ABOUT THE BACKGROUND OF APPLICANTS OR REGULATED PARTIES FOR THE PURPOSES OF PROCESSING PERMITS. THIS INCLUDES THE ABILITY TO IDENTIFY APPLICANTS OR REGULATED PARTIES WITH HISTORIES OF ENVIRONMENTAL VIOLATIONS OR CRIMINAL ACTIVITIES AND/OR ASSOCIATIONS; OR APPLICANTS WHO CANNOT DEMONSTRATE THE REQUIRED RESPONSIBILITY, EXPERTISE OR COMPETENCE WHICH IS NECESSARY FOR THE PROPER OPERATION OR ACTIVITY PERMITTED BY THE DEPARTMENT.

CHAPTER 11. NURSING FACILITIES AND SIMILAR FACILITIES

Subchapter IV. Criminal Background Checks; Mandatory Drug Testing; Nursing Home Compliance with Title XIX of the Social Security Act.

(a) *Purpose.* It is the intent of the General Assembly that the primary purpose of the criminal background check and drug testing requirements of this section and § [1142](#) of this title is the protection of the safety and well-being of residents of nursing homes and other facilities licensed pursuant to this chapter. These sections shall be construed broadly to accomplish this purpose.

- 1) "Applicant" means any of the following
 - a. A person seeking employment in a nursing home
 - b. A current employee of a nursing home who seeks a promotion in the facility;
 - c. A person referred by a temporary agency to a nursing home

(c) No employer who operates a nursing home or a management company or other business entity that contracts to operate a nursing home may hire or employ any applicant without

obtaining a report of the person's entire criminal history record from the State Bureau of Identification and a report from DHSS regarding its review of a report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544.

MUST BE CONDUCTED NOT MORE THAN 90 DAYS PRIOR TO EMPLOYMENT.

Subchapter V. Home Health Agencies and Private Residences - Criminal Background Checks; Drug Testing

- a. A person seeking employment in a home health agency, or a management company or other business entity that contracts to provide services on behalf of a home health agency, for the purposes of providing to individuals in their home or private residence (excluding residents of hospitals and nursing homes) licensed nursing services, home health aide services, physical therapy, speech pathology, occupational therapy or social services;
- b. A person referred by a temporary agency to a home health agency, or a management company or other business entity that contracts to provide services on behalf of a home health agency;
- c. Any individual seeking employment in a private residence for the purpose of providing for the health, safety and well-being of an individual in that residence who is unable as a result of physical or mental capacity to provide these things for himself or herself in an adequate manner. This definition specifically excludes any person directly related to the person needing care, unless covered under some other section of this statute; or
- d. A current employee of a home health agency, management company or other business entity that contracts to provide services on behalf of a home health agency for the purposes of providing to individuals in their home or private residence (excluding residents of hospitals and nursing homes) licensed nursing services, home health aide services, physical therapy, speech pathology, occupational therapy or social services; or any individual, currently employed in a private residence for the purpose of providing for the health, safety and well-being of an individual in that residence who is unable as a result of physical or mental capacity to provide these things for himself or herself in an adequate manner, who the Department has a reasonable suspicion has been convicted of a disqualifying crime since becoming employed.

(2) (c) No employer who operates a home health agency, or a management company or other business entity that contracts to provide services on behalf of a home health agency, may hire

or employ any applicant without obtaining a report of the person's entire criminal history record from the State Bureau of Identification and a report from the Department of Health and Social Services ("DHSS") regarding its review of a report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544.

CHAPTER 67. AUTHORITY OF FIRE DEPARTMENTS AND FIRE POLICE WITHIN THE STATE

- (a) A person seeking certification as an ambulance attendant or as an emergency medical technician (EMT) shall apply to the Commission using forms prescribed by the Commission. With the application, the applicant shall submit fingerprints and other necessary information in order to obtain the following:
- (1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person.
 - (2) A report of the individual's entire federal criminal history record from the Federal Bureau of Investigation. The State Bureau of Identification shall be the intermediary for the purposes of this section and the Commission shall be the screening point for the receipt of said federal criminal history records.

REGULATIONS FOR CRIMINAL BACKGROUND CHECKS AND MANDATORY DRUG TESTING

The Division of Long Term Care Residents Protection has developed regulations pertaining to Criminal Background Checks and Mandatory Drug Testing. Please [contact the Criminal Background Check & Mandatory Drug Testing phone number](#) if you have questions or would like a copy of the regulations.

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE BILL NO. 13

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO QUALITY IN HIRING OF EMPLOYEES AND OTHERS WHO PROVIDE SERVICES IN NURSING HOMES AND SIMILAR FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- i. A person seeking employment in a nursing home;
- ii. A current employee of a nursing home who seeks a promotion in the facility;
- iii. A person referred by a temporary agency to a nursing home.

District of Columbia

D.C. Code § 21402.66

Employers may not obtain or inquire into an arrest record. Employers may obtain a record of convictions occurring within the last 10 years, 7 years for a healthcare facility.

CHAPTER 4. RECREATION VOLUNTEER BACKGROUND CHECK AND SCREENING.

- (a) Except as provided in [§ 10-406](#), the Mayor shall not allow a person to be a certified volunteer until a criminal background has been conducted for that person and the results have been received by the Mayor and determined to meet the standards of this chapter.
- (b) The Mayor shall conduct a criminal background check once the applicant has provided a set of qualified fingerprints and has done the following:

CHAPTER 5. HEALTH-CARE AND COMMUNITY RESIDENCE FACILITY, HOSPICE AND HOME CARE LICENSURE.

SUBCHAPTER II. UNLICENSED PERSONNEL CRIMINAL BACKGROUND CHECK.

§ 44-552. Criminal background checks.

- (a) The requirements of this section shall not apply to persons employed on or before July 23, 2001, persons licensed under Chapter 12 of Title 3, or to a person who volunteers

services to a facility and works under the direct supervision of a person licensed pursuant to Chapter 12 of Title 3.

(b) No facility shall employ or contract with any unlicensed person until a criminal background check has been conducted for that person. Each facility shall inform each prospective employee or contract worker that the facility is required to conduct a criminal background check before employing or contracting with an unlicensed person.

The Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998 has been amended to limit the period in which criminal convictions would bar an unlicensed person from employment with a health care facility to the 7 years preceding the criminal background check. Division VIII, Title 44, Subtitle I, Chapter 5, Section 44-551 and 44-552, as amended by D.C. Act 14-231 (D.C. Law 14-98), L. 2002, effective April 13, 2002. [§19-23,600.01](#) and [§19-23,600.02](#).

TITLE 44. CHARITABLE AND CURATIVE INSTITUTIONS.

SUBTITLE I. HEALTH RELATED INSTITUTIONS.

CHAPTER 1. ASSISTED LIVING RESIDENCE REGULATION.

SUBCHAPTER VII. STAFFING AND TRAINING.

§ 44-107.01. Staffing standards.

(8) Assure that each employee has a background check pursuant to federal and District law executed at the time of initial employment;

Maryland

EMPLOYERS MAY NOT INQUIRE ABOUT ANY CRIMINAL CHARGES THAT HAVE BEEN EXPUNGED. EMPLOYERS MAY NOT USE A REFUSAL TO DISCLOSE INFORMATION AS THE BASIS FOR NOT HIRING AN APPLICANT.

ON OR BEFORE THE FIRST DAY OF EMPLOYMENT EMPLOYERS AND EMPLOYEES MUST APPLY FOR A STATE AND FEDERAL CRIMINAL BACKGROUND CHECK:

- **CHILD CARE CENTERS;**
- **HOMES AND INSTITUTIONS;**
- **FAMILY CARE CENTERS;**
- **JUVENILE DETENTION, CORRECTION OR TREATMENT FACILITIES;**
- **PUBLIC AND CERTAIN PRIVATE SCHOOLS;**
- **FOSTER CARE HOME AND GROUP FACILITIES; AND**
- **RECREATION CENTERS FOR MINORS.**

Maryland Code Com. Law 14.1201.14.1218 14-1203

Maryland Code Com. Law 14.1201(1)(2)(1)

Maryland Code Com, Law Sec. 14.1212.(a)

Adult Dependent Care

REQUIRES ADULT DEPENDENT CARE PROGRAMS TO GET A CRIMINAL HISTORY RECORDS CHECK FOR A POTENTIAL EMPLOYEE (WOULD INCLUDE UNLICENSED STUDENT PRACTITIONER) WHO WILL HAVE "ROUTINE, DIRECT ACCESS TO RESIDENTS AND THE INDIVIDUAL IS NOT LICENSED OR CERTIFIED UNDER THE MARYLAND HEALTH OCCUPATIONS ARTICLE.

Family Law Article 5-561(a) Public School Employees

Schools employees, teachers, coaches, athletic officials and outside contractors working in a public school, but not student teachers unless they will have unsupervised access to the students (generally means the school will require a background check). Volunteers, chaperones and mentors with uncontrolled access require a background check.

§ 19-4B-03. Health - General

- (a) (1) A nursing referral service agency may receive a fee or other compensation for providing its services.
- (2) Develop and implement a procedure to screen licensed health professionals and care providers that includes the following:
 - (i) In accordance with subsection (c) of this section:
 - 1. A State criminal history records check; or
 - 2. A private agency background check;

§ 19-1902. Health - General

(A) BEFORE AN ELIGIBLE EMPLOYEE MAY BEGIN WORK FOR AN ADULT DEPENDENT CARE PROGRAM, EACH ADULT DEPENDENT CARE PROGRAM SHALL, FOR EACH ELIGIBLE EMPLOYEE:

- (b) An adult dependent care program shall pay for each eligible employee:
- (c) (1) A State criminal history records check; (2) A private agency background check.

Massachusetts

EMPLOYERS MAY NOT ASK ABOUT ARRESTS THAT DID NOT RESULT IN A CONVICTION. EMPLOYERS MAY OBTAIN A RECORD OF CONVICTIONS OCCURRING WITHIN THE LAST 7 YEARS. EMPLOYERS MAY NOT INQUIRE ABOUT MISDEMEANOR CONVICTIONS WHERE THE DATE OF THE CONVICTION OR THE COMPLETION OF INCARCERATION, WHICHEVER IS LATER, OCCURRED 5 OR MORE YEARS PRIOR TO THE DATE OF APPLICATION FOR EMPLOYMENT. EMPLOYERS MAY NOT ASK ABOUT FIRST TIME CONVICTIONS FOR DRUNKENNESS, SIMPLE ASSAULT, SPEEDING, MINOR TRAFFIC VIOLATIONS, OR DISTURBING THE PEACE. IF A JOB APPLICATION HAS A QUESTION ABOUT PRIOR ARRESTS OR CONVICTIONS, IT MUST STATE THAT AN APPLICANT WITH A SEALED RECORD IS ENTITLED TO ANSWER “NO RECORD”.

Agencies that provide home health aides, companions, and certain other types of services to the elderly or to persons with disabilities and long-term care facilities must obtain all available criminal record information on individuals who will provide services, before the individual is employed.

The school committee, superintendent, and principal of any public school will have access to criminal offender record information regarding all applicants for all school positions, including subcontractors, and laborers, who perform work on school grounds if there may be direct contact between the applicant and school children.

Operators of camps for children and any entities or organizations primarily engaged in providing activities or programs for children 18 years or under that accept volunteers must obtain all available criminal offender record information for prospective and present employees and volunteers.

Massachusetts general Laws, Part I Administration of the Government, Title Xv, regulation of Trade, Chapter 93, Regulation of Trade and Certain Enterprises, Consumer Credit Reporting

Massachusetts General Laws ch.93.50.68.93.52

Massachusetts General Laws ch.93.50

Massachusetts General Laws ch.93.53

AGENTS, BROKERS AND ADJUSTERS

**CHAPTER 175: SECTION 172 ADJUSTERS OF FIRE LOSSES;
LICENSING; PENALTY; EXAMINATION FOR APPLICANTS**

Section 172. The commissioner may, upon the payment of the fee prescribed by section 14 and after successful completion of a written examination, issue to any suitable person of 21 years of age or more a license to act as a public insurance adjuster in the commonwealth, if such person files with the commissioner a written application for such license executed on oath by the applicant. Included with the application shall be 2 passport sized photographs taken within 60 days of the date of the application together with a certified copy of a criminal background check. A licensee shall be a resident of the commonwealth or a bona fide resident of a state or country which permits residents of this commonwealth to act as adjusters in such other state or country.

Missouri

CRIMINAL BACKGROUNDS ARE REQUIRED FOR HEALTH CARE AND EDUCATIONAL PROFESSIONALS AND APPLICANTS FOR POSITIONS AS HEALTH CARE AND EDUCATIONAL PROFESSIONALS, CHILD CARE, ELDER CARE AND PERSONAL CARE WORKERS MUST COMPLETE A REGISTRATION FORM FOR THE STATE'S FAMILY CARE SAFETY REGISTRY PROVIDED BY THE DEPARTMENT OF HEALTH WITHIN 15 DAYS OF THE BEGINNING OF THEIR EMPLOYMENT.

The following examples are provided to help you understand what types of inquiries are acceptable and what types are inadvisable under the Act. The list is not exhaustive and there may be exceptions.

	Acceptable	Inadvisable
Arrest record	None, unless job related	Number and kinds of arrest
Convictions Record	Inquiry into actual convictions if substantially related to applicant's ability to perform a specific job	Inquiries about convictions unrelated to job requirements
Credit Records	None, unless job related	Inquiries about charge accounts, credit rating, including bankruptcy or garnishments

http://dolir.state.mo.us/hr/interview.htm		
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Missouri Revised Statutes - Chapter 660 - Department of Social Services

Section 660.317 - August 28, 2004

Criminal background checks of employees, required when--persons with criminal history not to be hired, when, penalty--failure to disclose, penalty--improper hiring, penalty--definitions--rules to waive hiring restrictions.

660.317. 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

- (1) Is licensed as an operator pursuant to chapter 198, RSMo;
- (2) Provides in-home services under contract with the department;
- (3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;
- (4) Is an entity licensed pursuant to chapter 197, RSMo;
- (5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or
- (6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540, RSMo.

3. PRIOR TO ALLOWING ANY PERSON WHO HAS BEEN HIRED AS A FULL-TIME, PART-TIME OR TEMPORARY POSITION TO HAVE

CONTACT WITH ANY PATIENT OR RESIDENT THE PROVIDER SHALL, OR IN THE CASE OF TEMPORARY EMPLOYEES HIRED THROUGH OR CONTRACTED FOR AN EMPLOYMENT AGENCY, THE EMPLOYMENT AGENCY SHALL PRIOR TO SENDING A TEMPORARY EMPLOYEE TO A PROVIDER:

(1) Request a criminal background check as provided in section 43.540, RSMo. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, RSMo, all records related to

any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section 660.315.

4. When the provider requests a criminal background check pursuant to section 43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

In-Home Services Provider or Home Health Agency

An in-home services provider or home health agency is guilty of a misdemeanor if they knowingly employ a person to provide in-home or home health services who either refuses to register with the Family Care Safety Registry or is listed on any of the background check lists in the registry. Title 40, Chapter 660, Section 660.317, as amended by S.B. 4, L. 2003, effective Sept. 15, 2003. [¶26-23.600.61](#).

The rule pertaining to criminal background checks of in-home services provider or home health agency personnel has been amended to reflect the changes made by S.B. 4, L. 2003. Title 19, Division 30, Chapter 82, Section 19 CSR 30-82.060, as amended effective Oct. 26, 2003 to expire April 22, 2004. [¶26-23.650.01](#).

Missouri Revised Statutes - Chapter 168 - Personnel--Teachers and Others Section 168.133 - August 28, 2004

Criminal background checks required for school personnel, when, procedure-- rulemaking authority.

168.133. 1. THE SCHOOL DISTRICT SHALL ENSURE THAT A CRIMINAL BACKGROUND CHECK IS CONDUCTED ON ANY PERSON EMPLOYED AFTER JANUARY 1, 2005, AUTHORIZED TO HAVE CONTACT WITH PUPILS AND PRIOR TO THE INDIVIDUAL HAVING CONTACT WITH ANY PUPIL. SUCH PERSONS INCLUDE, BUT ARE NOT LIMITED TO, ADMINISTRATORS, TEACHERS, AIDES, PARAPROFESSIONALS, ASSISTANTS, SECRETARIES, CUSTODIANS, COOKS, AND NURSES. FOR BUS DRIVERS, THE BACKGROUND CHECK CONDUCTED BY THE DEPARTMENT OF REVENUE FOR THE ISSUANCE OR RENEWAL OF A SCHOOL BUS PERMIT UNDER SECTION 302.272, RSMo, SHALL SATISFY THE BACKGROUND CHECK REQUIREMENTS OF THIS SECTION.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

Missouri Revised Statutes - Chapter 210 - Child Protection and Reformation
Section 210.906 - August 28, 2004

210.906. 1. Every child-care worker or eldercare worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care or personal-care worker who fails to submit a completed registration form to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. THE COSTS OF THE CRIMINAL BACKGROUND CHECK MAY BE PAID BY THE INDIVIDUAL APPLICANT, OR BY THE PROVIDER IF THE APPLICANT IS SO EMPLOYED, OR FOR THOSE APPLICANTS RECEIVING PUBLIC ASSISTANCE, BY THE STATE THROUGH THE TERMS OF THE SELF-SUFFICIENCY PACT PURSUANT TO

SECTION 208.325, RSMo. ANY MONEYS REMITTED TO THE PATROL FOR THE COSTS OF THE CRIMINAL BACKGROUND CHECK SHALL BE DEPOSITED TO THE CREDIT OF THE CRIMINAL RECORD SYSTEM FUND AS REQUIRED BY SECTION 43.530, RSMo.

4. ANY PERSON LICENSED PURSUANT TO SECTIONS 210.481 TO 210.565 SHALL BE AUTOMATICALLY REGISTERED IN THE FAMILY CARE SAFETY REGISTRY AT NO ADDITIONAL COST OTHER THAN THE COSTS REQUIRED PURSUANT TO SECTIONS 210.481 TO 210.565.

Missouri Revised Statutes - Chapter 590 - Peace Officers, Selection, Training and Discipline - Section 590.060 - August 28, 2004 – Peace Officers

Minimum standards for training instructors and centers--licensure of instructors--background check required, when.

590.060. 1. The POST commission shall establish minimum standards for training instructors and training centers, and the director shall establish minimum qualifications for admittance into a basic training course.

2. The director shall license training instructors, centers, and curricula, and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. EACH PERSON SEEKING ENTRANCE INTO A BASIC TRAINING PROGRAM SHALL SUBMIT A FINGERPRINT CARD AND AUTHORIZATION FOR A CRIMINAL HISTORY BACKGROUND CHECK TO INCLUDE THE RECORDS OF THE FEDERAL BUREAU OF INVESTIGATION TO THE TRAINING CENTER WHERE SUCH

PERSON IS SEEKING ENTRANCE. THE TRAINING CENTER SHALL CAUSE A CRIMINAL HISTORY BACKGROUND CHECK TO BE MADE AND SHALL CAUSE THE RESULTING REPORT TO BE FORWARDED TO THE DIRECTOR. THE PERSON SEEKING ENTRANCE MAY BE CHARGED A FEE FOR THE COST OF THIS PROCEDURE.

Missouri Revised Statutes - Chapter 302 - Drivers' and Commercial Drivers' Licenses -Section 302.272 - August 28, 2004 – School Bus Drivers

School bus endorsement, qualifications--endorsement renewal, when--fee--temporary endorsements--grounds for refusal to issue or renew endorsement--criminal record checks of applicants.

2. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A SCHOOL BUS ENDORSEMENT SHALL BE RENEWED EVERY THREE YEARS AND SHALL REQUIRE THE APPLICANT TO PROVIDE A MEDICAL EXAMINATION AS SPECIFIED IN SUBDIVISION (3) OF SUBSECTION 1 OF THIS SECTION AND TO SUCCESSFULLY PASS A WRITTEN SKILLS EXAMINATION AS PRESCRIBED BY THE DIRECTOR OF REVENUE IN CONSULTATION WITH THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION. IF THE APPLICANT IS AT LEAST SEVENTY YEARS OF AGE, THE SCHOOL BUS ENDORSEMENT SHALL BE RENEWED ANNUALLY, AND THE APPLICANT SHALL SUCCESSFULLY PASS THE EXAMINATION PRESCRIBED IN SUBDIVISION (4) OF SUBSECTION 1 OF THIS SECTION PRIOR TO RECEIVING THE RENEWED ENDORSEMENT, PROVIDED THAT THE BACKGROUND CHECK, AS CONTEMPLATED BY SUBSECTIONS 5 AND 6 OF THIS SECTION, SHALL CONTINUE TO BE CONDUCTED ON A RENEWING APPLICANT'S PREVIOUSLY

ESTABLISHED THREE-YEAR RENEWAL SCHEDULE. THE DIRECTOR MAY WAIVE THE WRITTEN SKILLS EXAMINATION ON RENEWAL OF A SCHOOL BUS ENDORSEMENT UPON VERIFICATION OF THE APPLICANT'S SUCCESSFUL COMPLETION WITHIN THE PRECEDING TWELVE MONTHS OF A TRAINING PROGRAM WHICH HAS BEEN APPROVED BY THE DIRECTOR IN CONSULTATION WITH THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION AND WHICH IS AT LEAST EIGHT HOURS IN DURATION WITH SPECIAL INSTRUCTION IN SCHOOL BUS DRIVING.

Missouri Revised Statutes - Chapter 324 - Occupations and Professions General Provisions - Section 324.609 - August 28, 2004 – Fire Adjusters

Application procedure, contents--qualifications of applicants--conditions of licensure--denial of licensure, when--fee--renewal.

324.609. 1. Every person desiring to be licensed in this state as a licensed private fire investigator or licensed private fire investigator agency shall make an application to the board. An application for a license pursuant to the provisions of sections 324.600 to 324.635 shall be on a form prescribed by the board and accompanied by the required application fee. An application shall be verified and shall include:

2. TO BE ELIGIBLE FOR LICENSURE, THE APPLICANT SHALL:

- (1) Be at least twenty-one years of age;
 - (2) Be a citizen of the United States;
 - (3) Not have a felony conviction or a conviction of a crime involving moral turpitude;
 - (4) Provide proof of liability insurance with amount to be no less than one million dollars in coverage; and
- (3) Provide a background check from an authorized state law enforcement agency. The board shall conduct a complete investigation of the background of each applicant for licensure as a

licensed private fire investigator or agency to determine whether the applicant is qualified for licensure pursuant to sections 324.600 to 324.635; and

(4) Pass any other basic qualification requirements as the board shall outline.

New Hampshire

NEW HAMPSHIRE EMPLOYERS MAY ASK ABOUT A PREVIOUS CRIMINAL RECORD ONLY IF THE QUESTION SUBSTANTIALLY FOLLOWS THIS WORDING:

“Have you ever been arrested and convicted of a crime that has not been annulled by the court?”

It is unlawful discrimination for an employer to ask about an arrest record, to have a job requirement that an applicant have no arrest record if it has the purpose or effect of discouraging job applicants of a particular racial or national origin group.

State of New Hampshire, Title XXXI, Trade and Commerce, Chapter 359-B.

Consumer Credit Reporting

New Hampshire Rev. Stat. 56.11.28.56.11.39; Sec 359.B15.1

CHAPTER 151 - RESIDENTIAL CARE AND HEALTH FACILITY LICENSING

Section 151:2-d

151:2-d Criminal Record Check Required. –

I. Every applicant selected for employment with a home health care provider licensed under RSA 151:2, I(b), including those which provide only homemaker services, shall submit to the employer a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to

the facility pursuant to RSA 106-B:14; provided, that the scope of employment includes the provision of services in a client's home or otherwise involves direct contact with a client.

CHAPTER 161-I PERSONAL CARE SERVICES SECTION 161-I:6-A

161-I:6-a Criminal Record Check Required. –

I. Every applicant selected for employment with an other qualified agency, as defined in RSA 161-I:2, IX, shall submit to the employer a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the facility pursuant to RSA 106-B:14; provided, that the scope of employment includes the provision of services in a client's home or otherwise involves direct contact with a client.

CHAPTER 189 - SCHOOL BOARDS, SUPERINTENDENTS, TEACHERS, AND TRUANT OFFICERS; SCHOOL CENSUS

School Boards, Transportation and Instruction of Pupils

Section 189:13-a

189:13-a School Employee and Volunteer Background Investigations. –

I. The employing school administrative unit, school district, or charter school shall complete a background investigation and a criminal history records check on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment. A school administrative unit, school district, or charter school may extend a conditional offer of employment to a selected applicant after completing a background investigation, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended a conditional offer of employment unless the school administrative unit, school district, or charter school has initiated a criminal history records check. The school administrative unit, school district, or charter school shall not be held liable in any lawsuit alleging that the extension of a conditional or final offer of employment to an applicant, or the acceptance of volunteer services from a designated volunteer, with a criminal history was in any way negligent or deficient, if the school administrative unit, school district, or charter school fulfilled the requirements of this section. A person cannot be hired if found to convicted of Murder, child pornography, aggravated felonious sexual assault, or kidnapping.

This requirement also applies to private businesses and agencies that contract with the school district where the employee may have direct contact with a child including school bus drivers, cafeteria workers and custodians.

For the following, the Licensing Agency performs the check prior to issuing the license.

CHAPTER 326-B - REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND LICENSED NURSING ASSISTANTS

SECTION 326-B:4-C

326-B:4-c Criminal Record Checks. –

I. Every new applicant and every renewal applicant for a license under this chapter shall submit to the board a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the board pursuant to RSA 106-B:14.

CHAPTER 170-E

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES

Child Day Care Licensing

Section 170-E:7

170-E:7 State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. –

I. Child day care providers, including those working in a home, who are required to be licensed or registered according to the provisions of this chapter shall, within 30 days of adding new staff members responsible for the care of, or having regular contact with children, and within 30 days of adding new household members or other individuals who will have regular contact with children, submit to the department, the names, birth names, birth dates, and addresses of such individuals and other information required by the department as prescribed by rules adopted by the commissioner under RSA 541-A.

II. The department shall, for every name submitted on an application, in the registration process, and for each individual for whom information is required to be submitted pursuant to

paragraph I, review the names, birth names, birth dates, and current and previous addresses of such persons against the state registry of founded abuse and neglect reports. The department shall submit the names, birth names, birth dates, and addresses to the state police files to obtain information about criminal convictions.

New Jersey

NEW JERSEY DOES NOT STATUTORILY LIMIT THE USE OF CRIMINAL BACKGROUND CHECKS FOR HIRING PURPOSES. STILL, EMPLOYERS THERE ARE CAUTIONED THAT THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) CONTENDS THAT EMPLOYERS MAY NOT AUTOMATICALLY BAR APPLICANTS WHOSE CRIMINAL BACKGROUND REVEALS A MERE ARREST RECORD. INSTEAD, THE EEOC REQUIRES THE EMPLOYER TO EVALUATE THE ARREST AND DETERMINE WHETHER THE CONDUCT FOR WHICH THE APPLICANT WAS ARRESTED IS BOTH JOB-RELATED AND RELATIVELY RECENT. THE EEOC'S POSITION REGARDING CRIMINAL CONVICTIONS IS SIMILAR: AN EMPLOYER CANNOT BAR ALL APPLICANTS WITH A CONVICTION RECORD ABSENT BUSINESS NECESSITY.

IN ORDER TO DETERMINE WORK QUALIFICATIONS, EMPLOYERS MAY OBTAIN CRIMINAL RECORD INFORMATION ABOUT CONVICTIONS AND ABOUT ANY PENDING ARRESTS OR CHARGES. WHEN REQUESTING A RECORD, AN EMPLOYER MUST CERTIFY IN WRITING THAT HE WILL NOTIFY THE

APPLICANT; WILL PROVIDE SUFFICIENT TIME FOR THE APPLICANT TO CHALLENGE, CORRECT, COMPLETE RECORD AND WILL NOT PRESUME GUILTY FOR ANY PENDING CHARGES OR COURT ACTIONS.

N.J. P.L. 1999, c. 432 Employees and Volunteers of “Nonprofit Youth Serving Organizations”

Permits criminal history background checks to be performed on employees and volunteers of non-profit youth serving organizations.

6:1-100 – Airport Employees

Each airport operator shall require, for purposes of determining employment eligibility, the fingerprinting of prospective or current employees. The airport operator is authorized to receive **criminal** history record **background** information from the Division of State Police and the Federal Bureau of Investigation, **Criminal** Justice Information Service consistent with the provisions of Public Law 92-544, for use in determining employment eligibility.

17:9A-18.1 Persons ineligible to serve as officer, director, employee of a bank.

1. Except with the written consent of the commissioner, no person shall serve as an officer, director or employee of a bank, savings bank or bank holding company if (a) that person is convicted of any crime involving dishonesty or breach of trust, or (b) that person is prohibited from serving or continuing to serve in such capacity pursuant to 12 U.S.C. s.1829.

TITLE 18A EDUCATION 18A: 6-7.1

Public school employees including school bus drivers and contracted service providers must undergo criminal background checks before being employed. Schools may hire employees provisionally for 3 months while the check is being conducted, but only after the school board directors make an a special request for provisional hiring. Employees with direct contact with children must also have a fingerprint check.

N. J. P.L. 1999, c 358 Social Services Workers

This statute, which amended N.J.S.A. 30:6D-63 et seq., requires employees of community agencies under contract with the Division of Developmental Disabilities to submit to a criminal background check.

30:5B-6.11 CHILD CARE CENTERS

2. AS A CONDITION OF SECURING OR MAINTAINING A LICENSE OR LIFE-SAFETY APPROVAL, A **CHILD CARE** CENTER OWNER OR SPONSOR SHALL ENSURE THAT A CRIMINAL HISTORY RECORD **BACKGROUND CHECK IS** CONDUCTED ON ALL STAFF MEMBERS OF THE CENTER.

a. " Child" means any person under the age of 13.

b. " Child Care Center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. In the case of a center operating in a sponsor's home, children who reside in the home shall not be included when counting the number of children being served. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the " Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

(1) (Deleted by amendment, P.L.1992, c.95).

(2) A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or **child care** centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;

(3) Centers or special classes operated primarily for religious instruction or for the temporary **care** of children while persons responsible for such children are attending religious services;

(4) A program of specialized activity or instruction for children that is not designed or intended for **child care** purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;

(5) Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P.L.1973, c.375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health. A youth camp sponsor who also operates a child care center shall secure a license from the Department of Human Services for the center;

(6) Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services;

(7) Programs operated by the board of education of the local public school district that is responsible for their implementation and management;

(8) A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;

(9) A child care program operating within a geographical area, enclave or facility that is owned or operated by the federal government;

(10) A family day care home that is registered pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.); and

(11) Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.18A:46-1 et seq.

As a condition of obtaining or renewing a childcare license, a criminal history background check must be performed for each staff member to determine if there are any reported incidents of child abuse or neglect involving employees. An employee refusal to consent must result in immediate termination.

40A:12A-22.2 HOUSING AUTHORITY FOR EMPLOYEES

CRIMINAL HISTORY BACKGROUND INCLUDING FINGERPRINT CHECKS ON APPLICANTS FOR EMPLOYMENT WITH LOCAL HOUSING AUTHORITIES. HOUSING AUTHORITIES ARE PROHIBITED FROM EMPLOYING PERSONS WITH A CRIMINAL RECORD. REFUSAL TO CONSENT TO A BACKGROUND CHECK MUST RESULT IN TERMINATION, NON-EMPLOYMENT.

45:1-28 HEALTHCARE PROFESSIONALS (PERFORMED BY LICENSING BOARD)

THE LICENSING BOARD WILL CONDUCT A BACKGROUND CHECK PRIOR TO ISSUING A LICENSE. IF THE RESULT IS UNACCEPTABLE, NO LICENSE WILL BE ISSUED.

48:16-22.3A REQUIREMENTS FOR APPLICANTS AS LIMOUSINE OPERATOR, DRIVER.

ANY PERSON WHO OWNS A LIMOUSINE SERVICE SHALL REQUIRE AN APPLICANT FOR EMPLOYMENT AS A LIMOUSINE OPERATOR OR DRIVER TO PROVIDE THE APPLICANT'S NAME, ADDRESS, CITIZENSHIP STATUS, A FORM OF PHOTOGRAPHIC IDENTIFICATION, BIRTH CERTIFICATE, AND SUCH OTHER

**INFORMATION AS THE COMMISSIONER OF TRANSPORTATION,
HEREINAFTER THE COMMISSIONER, MAY REQUIRE.**

49:3-56 REGISTERED INVESTMENT ADVISORS

**(P) FOR THE PURPOSES OF THIS SECTION, EACH APPLICANT
FOR REGISTRATION SHALL SUBMIT TO THE BUREAU CHIEF,
THE APPLICANT'S NAME, ADDRESS, FINGERPRINTS AND
WRITTEN CONSENT FOR A CRIMINAL HISTORY RECORD
BACKGROUND CHECK TO BE PERFORMED.**

STATE PERFORMED BACKGROUND CHECKS PRIOR TO STATE
REQUIRED PROFESSIONAL CERTIFICATION / LICENSING

**THE FOLLOWING ARE SOME OF THE STATE LICENSED
OCCUPATIONS THAT REQUIRE A STATE CONDUCTED CRIMINAL
BACKGROUND CHECK: THE STATE ISSUED LICENSE IS
REQUIRED FOR EMPLOYMENT AND WILL NOT BE ISSUED
UNLESS ACCEPTABLE.**

Alcohol and Drug Counselors

Attorney

Bio-Analytical Laboratory Director

Blaster

Burglar Alarm Mechanic

Chiropractor

Court Reporter

Director, administrator supervisor of Student Guidance Services in School

Emergency Medical Technician

Fire Alarm Mechanic

Fire Protection Equipment Contractor

Home Health Aide

Learning Disabilities Teacher / Consultant

Licensed Practical Nurse

Locksmith

Marriage and Family Therapist

Nurses Aide

Nursing Home Administrator

Occupational Therapist / Assistant

Optometrist

Orthoist / Assistant

Paramedic

Personal Care Assistant

Pharmacist

Physician

Physician Assistant

Registered Nurse

Security Officers

K-12 School Nurse, School Occupational Therapist, School Physical Therapist School
Psychologist, Social Worker, Supervisor of Instructional Personnel, Speech Language
Specialist

http://www.wnjp.in.net/coei/pdfs/license_2005.pdf

Social Services- N. J. P.L. 1999, c 358

This statute, which amended N.J.S.A. 30:6D-63 et seq., requires employees of community agencies under contract with the Division of Developmental Disabilities to submit to a criminal background check.

Because crimes or disorderly person's offenses disqualify individuals from employment in state facilities for individuals with mental illnesses and for individuals with developmental disabilities, criminal records checks are required prior to employment in these positions and at least once every 2 years during the period of employment.

Criminal history checks must be obtained for all persons current and prospective employees in direct contact with institutionalized elderly persons.

New York

IT IS UNLAWFUL DISCRIMINATION FOR AN EMPLOYER TO ASK ABOUT ANY ARRESTS OR CHARGES THAT DID NOT RESULT IN CONVICTION, UNLESS THEY ARE CURRENTLY PENDING.

NEW YORK CORRECT. LAW §§ 750-754; EXEC. LAW § 296(16)
AND OTHERS

NY CORRECT §752

EMPLOYERS WITH 10 OR MORE EMPLOYEES MAY NOT DENY EMPLOYMENT BASED ON CONVICTION UNLESS IT RELATES DIRECTLY TO THE JOB OR WOULD AN UNREASONABLE RISK TO PROPERTY OR TO THE PUBLIC OR INDIVIDUAL SAFETY.

EMPLOYERS MAY NOT CONSIDER MISDEMEANOR CONVICTIONS OLDER THAN 5 YEARS UNLESS THE PERSON HAS BEEN CONVICTED OF SOME OTHER CRIME THAT OCCURRED WITHIN 5 YEARS.

UPON REQUEST, AN APPLICANT MUST BE GIVEN, WITHIN 30 DAYS, A WRITTEN STATEMENT OF THE REASONS WHY EMPLOYMENT WAS DENIED.

**NEW YORK GEN. BUS. LAW CHAPTER 20 OF THE
CONSOLIDATED LAWS, ARTICLE 25 – FAIR CREDIT
REPORTING ACT**

**NEW YORK GEN BUS. LAW 380.380.S ART 25.380S
NEW YORK GEN BUS. LAW 380.B(B)
NEW YORK GEN BUS. LAW 380.C**

**NO PERSON MAY BE REQUIRED TO BE FINGERPRINTED AS A
CONDITION OF EMPLOYMENT OR OF CONTINUING
EMPLOYMENT. THE PROHIBITION DOES NOT APPLY TO:**

- **EMPLOYEES OF THE STATE OR ITS MUNICIPAL
SUBDIVISIONS;**
- **EMPLOYEES OF LEGALLY INCORPORATED HOSPITALS
SUPPORTED IN WHOLE OR IN PART BY PUBLIC FUNDS OR
PRIVATE ENDOWMENT;**
- **EMPLOYEES OF MEDICAL COLLEGES OF AFFILIATED
WITH ABOVE HOSPITALS**
- **EMPLOYEES OF PRIVATE PROPRIETARY HOSPITALS;**
- **EMPLOYEES OF PUBLIC ART GALLERIES OR MUSEUMS
HOUSING VALUABLE OBJECT OF ART; PRECIOUS METAL
OR STONES;**
- **INVESTIGATORS OF THE DEPARTMENT OF AGRICULTURE
AND MARKETS;**
- **DEPUTY-S OR UNDER SHERIFFS;**
- **SCHOOL EMPLOYEES;**
- **EMPLOYEES OF PRIVATE DETECTIVE LICENSEES;**
- **EMPLOYEES OF THE NATIONAL SECURITY EXCHANGE;
AND**
- **FARM LABOR CONTRACTORS**

Executive law S 837-n

Criminal history is required for caregivers of children.

Pennsylvania

EMPLOYERS MAY CONSIDER FELONY AND MISDEMEANOR CONVICTIONS ONLY IF THEY DIRECTLY RELATE TO PERSON'S SUITABILITY FOR THE JOB.

APPLICANTS MUST BE INFORMED IN WRITING IF THE REFUSAL FOR THE POSITION WAS BASED ON THE CRIMINAL RECORD INFORMATION.

18 PENNSYLVANIA CONS. STAT. § 9125 AND OTHERS

PA 18 Pa.C.S. §9125,

The use of criminal background checks in making hiring decisions is governed by 18 Pa.C.S. §9125, part of the Criminal History Record Information Act, 18 Pa.C.S. §9101-9181. Section 9125 permits employers to consider an applicant's felony and misdemeanor convictions - not mere arrests- in connection with hiring decisions. Significantly, however, the convictions may only be considered to the extent they relate to an applicants' suitability for the specific job in question. The Act further requires that if an employer's decision not to hire an applicant is based in whole or in part on criminal history record information, then the employer must so notify the applicant in writing. Rejected applicants can sue to challenge the employer's reliance on the

background check. If, for example, an employer relies on a conviction unrelated to the job, or if the employer relied on a mere arrest, the Act permits an award of actual and real damages, as well as punitive damages (up to \$10,000.00) and attorneys' fees.

Nurses/Nurses Aides: In accordance with the Professional Nursing Law and Chapter 21 of the PA Code, State Board of Nursing, any nurses, nurse's aides, or other health care facility workers must obtain a criminal background check from the PA State Police prior to the start of their clinical year of education. They must also complete the child abuse clearance by the PA Dept. of Public Welfare. The qualifications for licensure must be maintained before examination by the State Board of Nursing.

A criminal history check completed by the PA State Police central repository.

A child abuse clearance completed by the PA Dept. of Public Welfare.

FD-258 Fingerprint cards to be submitted to the FBI. (Less than 2 year non-residents of PA only.)

THE PA CODE SEC 49, CHAP 21

<http://www.pacode.com/secure/data/049/chapter21/chap21toc.html>

Healthcare for the Aging

The Act 169-1996 Amendment to OAPSA requires a criminal background check for all employees and administrators of a facility. Facilities are defined by the act to include: Domiciliary Care Homes, Home Health Care Agencies, Long Term Care Nursing Facilities (licensed by Dept. of Health), Adult Daily Living Centers (licensed by Dept. of Aging), and Personal Care Homes (licensed by Dept. of Public Welfare). In addition, the Pennsylvania Department of Health has defined home health care organization or agency to include: hospices and birth centers, and the Pennsylvania Department of Public Welfare (DPW) has concluded that the Act is applicable to all DPW-licensed and DPW-operated residential facilities for adults; specifically: Personal Care Homes, 55 Pa. Code Ch. 2620; Community Residential Rehabilitation Services, 55 Pa. Code Ch. 5310; Long Term Structured Residences, 55 Pa. Code Ch. 5320; Community Homes for Individuals with Mental Retardation, 55 Pa. Code Ch. 6400; Family Living Homes, 55 Pa. Code Ch. 6500; ICF-MR's (private and state), 55 Pa. Code Ch. 6600; State Mental Hospitals; and Nursing Facilities. A Home Health Care Agency is further

defined to include those agencies licensed by the Department of Health and any public or private organization which provides care to a care-dependent individual in their place of residence. Individuals with convictions for <http://www.aging.state.pa.us/psolinetraining/cwp/-#toc8a> prohibitive offenses are prohibited from employment in these facilities.

<http://www.aging.state.paus/psolingtraining/cwp/view.asp?a=3&3&Q=242721&psolinetrainingNav=1524>

Teachers/Student Teachers: (Act 34)-Section 1-111 of the Pennsylvania School Code requires that all applicants for school employment must obtain a criminal background check. In addition to the criminal background check (SP4-164) per Act 34 of 1985, Sections 6354-6358 (Act 151) of the Public Welfare Code requires that all applicants for school employment, both Pennsylvania residents and non-residents, also obtain a Child Abuse History Clearance(CY113).

A criminal history check completed by the PA State Police central repository.

A child abuse clearance completed by the PA Dept. of Public Welfare.

An application and certification check by the PA Dept. of Education Teacher Certification System.

FD-258 Fingerprint cards submitted to the FBI (Less than 2 year non-residents of PA only.)

PA Code Title 22, Part I, Chapter 8, **Sec.8.1- 8.4**

<http://www.pacode.com/secure/data/022/chapter/chap8toc.html>

The Pennsylvania Department of Education requires a background check and a child abuse clearance on all student teachers.

Background Checks Required by Act 34 of 1985, AMENDED 1990 (ACT 211 AND 1997 (ACT 30)

Pennsylvania law, 24 PS 1-111, specifies that ALL EMPLOYEES of public and private schools including those of independent contractors, but excluding employees who do not have direct contact with students, hired as of January 1, 1986, must undergo background checks. This requirement includes student teachers.

ALL STUDENT TEACHERS, WHETHER RESIDENTS OR NONRESIDENTS, MUST ALSO COMPLETE THE PENNSYLVANIA CHILD ABUSE HISTORY CLEARANCE.

Daycare: Act No. 1985-33 requires that certain staff members employed in the types of child care facilities and children's programs have both child abuse and criminal history record clearances prior to employment. Only staff members who will be providing direct care, supervision, guidance or control of children are covered by Act No. 1985-33.

A criminal history check completed by the PA State Police central repository.

A child abuse clearance completed by the PA Dept. of Public Welfare.

FD-258 Fingerprint cards submitted to the FBI. (Less than 2 year non-residents of PA only.)

PA Code Title 55, Part VIII, Chapter 6000, Sec.6000.21

<http://www.pacode.com/secure/data/055/chapter6000/s6000.21html>

It is within these particular paragraphs (bb)(1) and (bb)(2) that suggest employees of academic and athletic youth camps can be classified as a daycare center employees.

Subchapter A. CHILD ABUSE AND CRIMINAL HISTORY CLEARANCES

Act Nos. 1985-53 and 1987-80 apply to facilities which primarily serve children.

Pennsylvania Daycare: Act No. 1985-33

(bb) Act Nos. 1985-33 and 1987-80 do not apply to all facilities/programs serving children. (*Child*—A person 17 years of age or younger.)

(1) The acts apply only to facilities/programs primarily serving children. If more than 50% of the population served at a facility or unit within a facility are children, the facility or unit is considered a child care service. "Facility" means a building in which child care services are provided and "unit" means a separate and distinct portion or area of a building, such as an apartment unit, a wing of a building, or a floor of a building in which child care services are provided.

(2) The determination of whether a service is a child care service should be based upon the annual population of children cared for by the facility. The census

of each facility should be examined on an annual basis to determine if more than 50% of the population is under 17 years of age or younger. If so, the facility is considered a child care service.

Commercial Drivers License Drivers:

CFR -Title 49 Section 383.51 of the Commercial Vehicle Safety Act determines which criminal convictions, motor vehicle violations, and serious accidents can disqualify a CDL student or operator. A driver who is disqualified shall not drive a commercial motor vehicle. An employer shall not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a commercial motor vehicle.

A criminal history check completed by the PA State Police central repository.

A driver history check completed by the PA Dept. of Motor Vehicles.

CFR Title 49, Chapter III, Part 383, Sec.383.51

http://www.access.gpo.gov/nara/cfr/waisidx_gg/49cfr383_99.html

Municipal Police: The Commonwealth of PA Municipal Police Officer's Education and Training Commission requires a criminal history check on all applicants entering a police academy. When being hired, PA Municipalities will conduct a thorough background investigation in order for these officers to obtain Municipal Certification. We can do any or all of the following series of inquiries set by the Training Commission's guidelines.

- A criminal history check including the submission of fingerprints to the Central Repository for the Commonwealth and to the Federal Bureau of Investigation.
- A check of the applicant's credit history.
- Personal interviews with three people that have personal knowledge but are not related to the employee/applicant.
- Interviews of the employee/applicant's past employers, if any, for the last five years to determine work history.
- A check of the employee/applicant's driving record to verify a valid driver's license.

M.P.O.E.T.C.- Sec. 203.11 Qualifications, Sub-part10

<http://www.mpoetc.state.pa.us/mpotrs/cwp/view.asp?a=1133&q=440471>

The following law is proposed in the PA Statehouse. Last action was February 16, 2005 when it was sent to the Committee on Education for review.

College Faculty: The General Assembly of Pennsylvania has recently enacted the House Bill No. 2331 (The College and University Criminal History Record Act). This Act was referred to the Committee on Judiciary, February 3rd 2004 and is to take effect 90 days from that date. This is an act providing for college and university faculty criminal history record and information, and conferring powers and imposing duties on the Department of Education and the Pennsylvania State Police.

A criminal history check completed by the PA State Police central repository.

FD-258 Fingerprint cards submitted to the FBI by the PSP.

PA General Assembly House Bill No.564

<http://www.legis.state.pa.us/WU01/LI/BI/BT/2005/0/HB0564P0637.HTM>

Pennsylvania Record Check On-line

Here is the link to the PA State Police that schools are referring students to in order to have their screening forwarded to a required organization. It costs \$10 and the student pays.

<http://www.psp.state.pa.us/psp/cwp/view.asp?A=4&Q=48275>

Rhode Island

IT IS UNLAWFUL TO INCLUDE ON AN APPLICATION FORM OR TO ASK AS PART OF AN INTERVIEW IF THE APPLICANT HAS EVER BEEN ARRESTED OR CHARGED WITH A CRIME. EMPLOYERS MAY ASK IF AN APPLICANT HAS BEEN CONVICTED OF A CRIME.

APPLICANTS MUST BE INFORMED IN WRITING OF ANY DISQUALIFYING INFORMATION FOUND IN THE BACKGROUND

CHECK. EMPLOYERS ARE REQUIRED TO KEEP ON FILE EVIDENCE THAT CRIMINAL BACKGROUND CHECKS HAVE BEEN OBTAINED FOR ALL EMPLOYEES AS WELL AS THE RESULTS OF THE CHECKS.

Child care facility operators and persons with disciplinary authority over children and whose work involves regular contact with children without the presence of other employees, are subject to nationwide criminal record check including fingerprints.

Applicants and employees working at facilities licensed or registered with the Department of Health whose employment will involve routine contact with a patient or resident without the presence of other employees must undergo a statewide criminal background check within one week of employment if not prior to.

Rhode Island Gen. Laws. § 6.13.1.20.6.13.1.21(a)

Rhode Island Gen. Laws. § 6.13.1.20.(2)(1)

Rhode Island Gen. Laws. § 6.13.1.27

Rhode Island Gen. Laws. § 6.13.1.21(a)

Rhode Island Gen. Laws. § 6.13.1.21(b)

TITLE 28 - Labor and Labor Relations - CHAPTER 28-5 - Fair Employment Practices - SECTION 28-5-7

§ 28-5-7 Unlawful employment practices. – It shall be an unlawful employment practice:

(7) FOR ANY EMPLOYER TO INCLUDE ON ANY APPLICATION FOR EMPLOYMENT, EXCEPT APPLICATIONS FOR LAW ENFORCEMENT AGENCY POSITIONS OR POSITIONS RELATED TO LAW ENFORCEMENT AGENCIES, A QUESTION INQUIRING OR TO OTHERWISE INQUIRE EITHER ORALLY OR IN WRITING

WHETHER THE APPLICANT HAS EVER BEEN ARRESTED OR CHARGED WITH ANY CRIME; PROVIDED, THAT NOTHING IN THIS SUBDIVISION SHALL PREVENT AN EMPLOYER FROM INQUIRING WHETHER THE APPLICANT HAS EVER BEEN CONVICTED OF ANY CRIME;

Background checks performed by the state authorities:

TITLE 16 – Education - CHAPTER 16-48 - Educational Services to Very Young Children - SECTION 16-48-2 – Day Care

(State “may” perform a background check)

§ 16-48-2 (b) Upon application to establish a school or program as defined in this chapter or to renew the application, the applicant will submit the names of its owner, officers, and employees. The commissioner of elementary and secondary education may request the bureau of criminal identification of the state police to conduct a nationwide criminal records check of the owners, officers, and employees of the school or program and the bureau of criminal identification of the state police will conduct criminal records checks on request. To accomplish nationwide criminal records checks, the commissioner may require owners, officers, and employees of the schools or programs to be fingerprinted by the bureau of criminal identification of the state police. The commissioner may examine these criminal records checks to aid in determining the suitability of the applicant for approval or renewal of approval.

TITLE 16 – EDUCATION - CHAPTER 16-52 - MAINTENANCE OF ORDER ON CAMPUS

SECTION 16-52-3 – Campus Police and Private Security Personnel

§ 16-52-3 Security personnel. – (a) All campus police at state colleges and universities and all private security personnel employed by public or private colleges and universities shall, as a condition of their employment, apply to the bureau of criminal identification of the state police for a nationwide criminal records check.

(b) The nationwide criminal records check required by this section shall conform to applicable federal standards including the taking of fingerprints to identify the applicant. The results of the nationwide criminal records check required by this section shall be provided, in writing, to the applicant and, upon the request of the applicant, to any state or private college or university to which the applicant may apply for employment.

(c) Any private or state college or university which receives the results of a nationwide criminal records check pursuant to subsection (b) of this section shall maintain those records on file for so long as the applicant is employed by the college or university as a campus police officer or as a security person.

(d) It shall be the responsibility of the bureau of criminal identification of the state police to conduct the nationwide criminal records check required by this section. The applicant for a nationwide criminal records check under this section shall pay to the state police a fee of twenty dollars (\$20.00) at the time of his or her application; provided that, upon his or her employment as a campus police officer or as a security person by a private or state college or university the amount shall be reimbursed to the applicant by the college or university.

TITLE 23 - Health and Safety - CHAPTER 23-17 - Licensing of Health Care Facilities - SECTION 23-17-34 – Nursing Facilities – Home
Nursing

§ 23-17-34 Criminal records review – Nursing facilities – Home nursing care providers and home care providers. – (a) Any person seeking employment in a nursing facility, a home nursing care provider, or a home care provider which is or is required to be licensed, registered or certified with the department of health if that employment involves routine contact with a patient or resident without the presence of other employees, shall undergo a criminal background check to be initiated prior to or within one week of employment. All employees hired prior to the enactment of this section shall be exempted from the requirements of this section.

(b) The director of the department of health may by rule identify those positions requiring criminal background checks. The identified employee, through the employer, shall apply to the bureau of criminal identification of the state police or local police department for a statewide criminal records check. Fingerprinting shall not be required. Upon the discovery of any disqualifying information as defined in § 23-17-37 and in accordance with the rule promulgated

by the director of health, the bureau of criminal identification of the state police or the local police department will inform the applicant, in writing, of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information, will notify the employer, in writing, that disqualifying information has been discovered.

TITLE 23 - Health and Safety - CHAPTER 23-17 - Licensing of Health Care Facilities - SECTION 23-17-37

§ 23-17-37 Disqualifying information. – (a) Information produced by a criminal records review pertaining to conviction, for the following crimes will result in a letter to the employee and employer disqualifying the applicant from employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny, or felony banking law violations. An employee against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the employee.

(B) FOR PURPOSES OF THIS SECTION, "CONVICTION" MEANS, IN ADDITION TO JUDGMENTS OF CONVICTION ENTERED BY A COURT SUBSEQUENT TO A FINDING OF GUILTY OR A PLEA OF GUILTY, THOSE INSTANCES WHERE THE DEFENDANT HAS ENTERED A PLEA OF NOLO CONTENDERE AND HAS RECEIVED A SENTENCE OF PROBATION AND THOSE INSTANCES WHERE A DEFENDANT HAS ENTERED INTO A DEFERRED SENTENCE AGREEMENT WITH THE ATTORNEY GENERAL.

Vermont

Only employers who provide care for children, the elderly, and the disabled or who run postsecondary schools with residential facilities may obtain criminal record information from the state Criminal Information Center. Employers must file user agreements with the Center. The information may be obtained only after a conditional offer of employment and the applicant has given written consent on a signed, notarized release form. The release form must inform the applicant of the right to appeal the findings.

Vermont Stat. Tit. 20 § 2056c,

Vermont Stat. Tit. 9 2480a 2480g and others

§ 23-17-35 Prior criminal records checks. – If an applicant for employment has undergone a statewide criminal records check within eighteen (18) months of an application for employment, then an employer may request from the bureau of criminal identification or local police a letter indicating if any disqualifying information was discovered. The bureau of criminal identification will respond without disclosing the nature of the disqualifying information. The letter may be maintained on file to satisfy the requirements of this chapter.

6605F. WASTE MANAGEMENT PERSONNEL BACKGROUND REVIEW

- (a) DISQUALIFYING CRITERIA. ANY NONGOVERNMENTAL ENTITY OR PERSON APPLYING FOR A CERTIFICATION UNDER SECTIONS 6605, 6605A OR 6606 OF THIS TITLE, FOR INTERIM CERTIFICATION UNDER SECTION 6605B OF THIS TITLE, OR FOR A WASTE**

TRANSPORTATION PERMIT UNDER SECTION 6607A OF THIS TITLE, SHALL BE DENIED CERTIFICATION OR OTHER AUTHORIZATION IF THE SECRETARY FINDS:

- (b) (1) THAT THE APPLICANT OR ANY PERSON REQUIRED TO BE LISTED ON THE DISCLOSURE STATEMENT PURSUANT TO SUBDIVISION (B)(1) OF THIS SECTION HAS BEEN CONVICTED OF ANY OF THE FOLLOWING DISQUALIFYING OFFENSES IN THIS OR ANY OTHER JURISDICTION WITHIN THE 10 YEARS PRECEDING THE DATE OF THE APPLICATION:**
- (A) MURDER**
 - (B) KIDNAPPING AS DEFINED IN [SECTION 2405](#) OF [TITLE 13](#);**
 - (C) GAMBLING AS DEFINED IN [SECTION 2135](#) OF [TITLE 13](#);**
 - (D) ROBBERY AS DEFINED IN [SECTION 608](#) OF [TITLE 13](#);**
 - (E) BRIBERY AS DEFINED IN [CHAPTER 21](#) OF [TITLE 13](#);**
 - (F) EXTORTION AS DEFINED IN [SECTION 1701](#) OF [TITLE 13](#);**
 - (G) ARSON AS DEFINED IN CHAPTER 11 OF [TITLE 13](#);**
 - (H) BURGLARY AS DEFINED IN [SECTION 1201](#) OF [TITLE 13](#);**
 - (I) LARCENY AND EMBEZZLEMENT AS DEFINED IN [CHAPTER 57](#) OF [TITLE 13](#);**
 - (J)) FORGERY AND FRAUD AS DEFINED IN CHAPTERS 43, 47 AND 49 OF [TITLE 13](#) AND [CHAPTERS 63, 67, 71, 105](#) AND 131 OF [TITLE 9](#);**
 - (K)) POSSESSION AND CONTROL OF DRUGS AND RELATED OFFENSES AS DEFINED IN [CHAPTER 84](#) OF [TITLE 18](#);**

- (L) **TRAFFICKING IN ALCOHOLIC BEVERAGES AS DEFINED IN [SECTION 561](#) OF [TITLE 7](#);**
- (M) **THE FEDERAL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT AS DEFINED IN 18 U.S.C. § 1961 ET SEQ;**
- (N) **THE CRIMINAL PROVISIONS OF FEDERAL ANTITRUST LAWS FOR ACTIVITIES RELATED TO SOLID WASTE**
- (O) **THE CRIMINAL PROVISIONS OF ANY FEDERAL OR STATE ENVIRONMENTAL PROTECTION LAWS OR RULES RELATING TO SOLID WASTE;**
- (P) **OBSTRUCTION OF JUSTICE AS DEFINED IN [CHAPTER 67](#) OF [TITLE 13](#);**
- (Q) **FRAUD IN THE OFFERING, SALE OR PURCHASE OF SECURITIES AS DEFINED IN [SECTION 4224A](#) OF TITLE 9 AND IN THE UNITED STATES CODE**
- (R) **ALTERATION OF MOTOR VEHICLE IDENTIFICATION NUMBERS AS DEFINED IN [SECTION 1703](#) OF [TITLE 23](#);**
- (S) **UNLAWFUL MANUFACTURE, PURCHASE, USE, OR TRANSFER OF FIREARMS AS DEFINED IN [CHAPTER 85](#) OF TITLE 13 AND IN THE UNITED STATES CODE**
- (T) **PERJURY AS DEFINED IN [CHAPTER 65](#) OF [TITLE 13](#);**
- (U)
 - 3) that the applicant or any person required to be listed on the disclosure statement pursuant to subdivision (b)(1) of this section, alone or taken together, have committed more than one violation of environmental: statutes; rules; orders; certifications; or permits, issued by any jurisdiction, which have the potential to significantly harm the public health, public safety or the environment, giving due consideration to the size and scope of the applicant's business operations.

§3502. Day care facilities; school age care in public schools; 21st century fund.

- 4) REQUIRE SCREENING OF ALL PROGRAM STAFF MEMBERS AGAINST THE CHILD ABUSE REGISTRY, AND REQUIRE A CRIMINAL RECORDS CHECK OF ANY PROGRAM STAFF MEMBER WHO IS NOT CURRENTLY A SCHOOL EMPLOYEE OR AN EMPLOYEE OF A SCHOOL CONTRACTOR ALREADY SUBJECT TO A CRIMINAL RECORD CHECK AS PART OF THE HIRING PROCESS.**

2056e. Dissemination of criminal history records to the department of buildings and general services.

- (a) THE DEPARTMENT OF BUILDINGS AND GENERAL SERVICES SHALL OBTAIN FROM THE VERMONT CRIMINAL INFORMATION CENTER A VERMONT CRIMINAL RECORD, AN OUT-OF-STATE CRIMINAL RECORD, AND A RECORD FROM THE FEDERAL BUREAU OF INVESTIGATION FOR ANY APPLICANT FOR A STATE SECURITY PERSONNEL POSITION WHO HAS GIVEN WRITTEN AUTHORIZATION, ON A RELEASE FORM PRESCRIBED UNDER SECTION 2056C OF THIS CHAPTER, PURSUANT TO THE PROVISIONS OF THIS SUBCHAPTER AND THE USER'S AGREEMENT FILED BY THE COMMISSIONER OF BUILDINGS AND GENERAL SERVICES WITH THE CENTER. THE USER'S AGREEMENT SHALL REQUIRE THE DEPARTMENT TO COMPLY WITH ALL FEDERAL AND STATE STATUTES, RULES, REGULATIONS AND POLICIES REGULATING THE RELEASE OF CRIMINAL HISTORY RECORDS AND THE PROTECTION OF INDIVIDUAL PRIVACY. THE USER'S AGREEMENT SHALL BE SIGNED AND KEPT CURRENT BY THE COMMISSIONER. RELEASE OF INTERSTATE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS IS SUBJECT TO THE RULES AND REGULATIONS OF THE FEDERAL BUREAU OF**

INVESTIGATION'S NATIONAL CRIME INFORMATION CENTER.

- (b) For purposes of this section, "security personnel" means officers or employees of the state hired to perform security functions for the state, including, but not limited to: protecting the public health and welfare; patrolling, securing, monitoring, and safekeeping the property, facilities, and grounds of the state; and exercising other law enforcement duties as may be authorized by state or federal law

3174. Security guard and security agency licenses.

a) No person shall engage in the business of security guard or operate a private security agency providing guard services in this state without first obtaining a license to do so from the board. No person shall engage in the business of providing guard dog services or operate a private security agency providing guard dog services without first obtaining a license to do so from the board. The board shall not issue a license without first obtaining and approving the following

- 4) Evidence that the applicant has successfully passed the examination required by section 3175 of this title. The board may inquire of the Vermont criminal information center for any information on criminal records of the applicant, and the center shall provide such information to the board. The board, through the Vermont criminal information center, may also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it may also inquire of the Federal Bureau of Investigation, for any information on criminal records of the applicant. When fingerprinting is required, the applicant shall bear the costs associated with the return and resubmission of illegible fingerprint cards. The board may also make such additional inquiries it deems necessary into the character, integrity and reputation of the applicant.



Federal Law

AERONAUTICS AND SPACE

CFR Title 14, Part 107, Sec. 10331

THE AVIATION INDUSTRY REQUIRES SPECIFIC INVESTIGATIONS FOR INDIVIDUALS WHO HAVE UNESCORTED ACCESS TO A SECURITY IDENTIFICATION DISPLAY AREA (SIDA) IDENTIFIED BY 107.25.

BANKING

THE FEDERAL DEPOSIT INSURANCE ACT SECTION 19 THE BANKING INDUSTRY IS PROHIBITED FROM HIRING ANY PERSON CONVICTED OF ANY CRIMINAL OFFENSES INVOLVING DISHONESTY, BREACH OF TRUST, OR MONEY LAUNDERING; OR HAS AGREED TO ENTER INTO A PRE-TRIAL DIVERSION OR SIMILAR PROGRAM IN CONNECTION WITH A PROSECUTION OF SUCH OFFENSE.

Commercial Drivers License Drivers:

CFR -Title 49 Section 383.51 of the Commercial Vehicle Safety Act determines which criminal convictions, motor vehicle violations, and serious accidents can disqualify a CDL student or operator. A driver who is disqualified shall not drive a commercial motor vehicle. An employer shall not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a commercial motor vehicle.

HAZMAT LICENSES

CFR Title 49, Chapter 51, Section 5103a

A state may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of transportation has first determined that the individual does not pose a security threat. The state must perform the background check prior to issuing the license.

USA PATRIOTS ACT – SELECT AGENTS IN RESEARCH LABORATORIES

“Restricted persons”, who are now prohibited from having access to select agents, means any individual who:

- (A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;
- (B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;
- (C) is a fugitive from justice;
- (D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (E) is an [alien](#)² illegally or unlawfully in the United States;
- (F) has been adjudicated as a mental defective or has been committed to any mental institution;
- (G) is an [alien](#)² (other than an alien lawfully admitted for [permanent residence](#)³) who is a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria, or any other country to which the Secretary of State, pursuant to applicable law, has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or
- (H) has been discharged from the Armed Services of the United States under dishonorable conditions.

Information regarding individuals with access to “Select Agents” is provided to the FBI who will perform the background check.

Brady Handgun Violence Prevention Act (Brady Law) in 1993:

Federal law prohibits the following categories of persons from buying or **possessing firearms**:

- Those under indictment for, or convicted of, a crime punishable by imprisonment for a term exceeding one year;
- Fugitives from justice;
- Users of controlled substances;
- Persons adjudicated as "mental defective" or committed to mental institutions;
- Illegal aliens;
- Individuals dishonorably discharged from the military;
- Those who have renounced their United States citizenship;
- Persons subject to a court order restraining a person from harassing, stalking, or threatening an intimate partner or the child of the intimate partner; or,
- Those convicted of a domestic violence misdemeanor.

ADDITIONALLY, IT IS UNLAWFUL FOR A FEDERALLY LICENSED FIREARM DEALER TO SELL A HANDGUN TO ANYONE UNDER THE AGE OF 21, OR A LONG GUN TO ANYONE UNDER 18.

WHILE IT IS AGAINST THE LAW FOR A FEDERALLY-LICENSED FIREARM DEALERS TO SELL A HANDGUN TO ANYONE UNDER 21 YEARS OF AGE, THE LAW ALLOWS INDIVIDUALS OVER THE AGE OF 18, BUT NOT YET 21, TO POSSESS HANDGUNS.

JOINT COMMISSION ON ACCREDITATION FOR HEALTHCARE ORGANIZATIONS

Q: What is the JCAHO requirement for criminal background checks and for which type of individual must it be performed?

A: Standard HR.1.20 for staff, students and volunteers who work in the same capacity as staff who provide care, treatment, and services, at EP 5 states criminal background checks are verified when required by law and regulation and organization policy.

This means that if state law, regulation or organization policy requires background checks on all employees, volunteers and students, JCAHO expects them to be done on all three categories.

If state law requires background checks on only specified types of health care providers (e.g. nursing assistants/child care workers), then JCAHO would require background checks on only those specified in state law (unless organization policy goes beyond state law).

If state law requires background checks on all "employees", the organization should seek an opinion from the state on what categories of health care workers are considered "employees". If the state clearly does not consider volunteers or students to be employees, then JCAHO would not require background checks on them (unless organization policy goes beyond state law and requires it).

If state law is ambiguous as to the definition of employee, the organization can define the scope of background checks to fit its own definition. As such, they may include or exclude students and volunteers, and JCAHO would survey to hospital policy.

CRIMINAL HISTORY RECORD CHECKS

by John C. Patterson, Nonprofit Risk Management Center, Washington, DC

Introduction

Organizations are responsible for taking reasonable measures to protect service recipients from harm. This responsibility extends to all facets of an organization's interactions with community. Perhaps no protective measure has received more attention than screening processes used by organizations to examine closely the backgrounds of individuals who seek positions requiring direct contact with vulnerable service recipients.

While not a panacea, careful screening of the staff and volunteers who work with vulnerable populations is an important risk management precaution. Failure to adequately screen applicants may place service recipients in dangerous situations. Many lawsuits against organizations are based upon allegations of negligence during the personnel selection process. Checking criminal history records of applicants is a valuable tool in a comprehensive screening process.

The purpose of this information is to offer guidance to program directors and other staff who are responsible for the implementation of this requirement.

This information explores many of the issues that organizations should address as they comply with an organization's mandate to implement criminal history record checks. These issues include:

- Factors organizations should resolve prior to conducting criminal history record checks;

- Steps in conducting criminal history record checks, including notifying applicants, determining information requirements, accessing records, determining costs, and interpreting results;
- Limitations of criminal history record checks.

Preparing to Conduct Criminal History Record Checks

Throughout this publication, the term "applicant" is used to refer to individuals subject to a criminal history record check. There are two reasons for this: 1) most criminal history record checks are performed as part of an organization's screening of applicants; and 2) even if the subjects of criminal history record checks are already employees or staff, they cannot serve in the specified positions until their record checks are completed - therefore, they are applicants for those positions.

A criminal history record check is part of a screening process - not a selection criterion. Before incorporating criminal history record checks into their screening processes, organizations should establish screening criteria - clear guidelines stating which offenses are relevant; what offenses will disqualify an applicant; what, if any, other factors will be considered; and how the rights of the applicant will be preserved.

The mission of each organization will provide the gauge for determining the amount of risk that an organization decides to accept. An organization using ex-gang members as mentors for "at-risk youths" will likely use a different standard for evaluating criminal history records than another organization that assists elderly individuals in their homes with health care needs.

Relevant Offenses

Within the context of the organization's mission, the offenses that organizations might consider relevant are a function of the specific position in which an Organization member or staff person will serve. The Corporation's grant condition specifies that criminal history record checks be conducted for individuals "...who have substantial direct contact with children (as defined by state law) or who perform service in the homes of children or individuals considered vulnerable by the program..." The question that organizations must answer is, "What offense histories

would disqualify an individual from serving in such positions?"

When establishing screening criteria, organizations must take into account state and local laws and regulations. Some jurisdictions have instituted screening or licensing requirements for individuals who have substantial contact with children or other vulnerable individuals (dependent elderly or individuals with disabilities). Organizations should determine if licensing or regulatory agencies have identified specific offenses that would disqualify applicants for some assignments.

The National Child Protection Act of 1993 envisioned a process in which an organization would not receive a copy of an individual's "rap sheet," but would instead be given a summary of the record made by a state agency. The agency would tell the organization only if the individual's record included offenses making the applicant unfit for working with children or other vulnerable clientele. Since very few states have elected to follow the guidelines contained in the National Child Protection Act, organizations are more likely to receive a record of all criminal convictions.

For positions that require substantial direct contact with children or other vulnerable populations, personal safety concerns are paramount. Therefore, the focal points of criminal history record checks for these individuals are crimes against persons.

Youth-serving organizations generally agree that individuals should be permanently disqualified from holding positions that require substantial contact with children if their criminal records

include any of the following:

- Past history of sexual abuse of children.
- Conviction for any crime in which children were involved.
- History of any violence or sexually exploitive behavior.

Offenses become relevant based upon the nature of the position. For example, assisting with in-home health care could provide an organization members or staff access to prescription medications that may tempt individuals with a history of drug abuse or those who recognize the potential street value of the drugs if they were to steal them. A recent record (within the past few years) of substance abuse or drug distribution would be very relevant given the characteristics of the position in which the applicant would serve.

The more specific a criterion is, the more useful it is for screening. Specific offenses pinpoint the areas of concern and do not unnecessarily disqualify applicants. Some organizations include broad categories of offenses in their lists of disqualifying offenses, for example, "drug-related offenses." This category is extremely broad, encompassing everything from a single misdemeanor possession of less than an ounce of marijuana to felony racketeering. Organizations should consider narrowing their categories to target specific relevant offenses committed within a defined time period. For example, "conviction, within the past ten years, for possession with intent to distribute a controlled substance." Please note: the time period and the offense above are hypothetical-used to illustrate the point. They are not intended to be suggested screening criteria.

While protecting people is the primary motivation for conducting criminal history record checks, protecting personal property is an important consideration when client services include home visitations. Therefore, organizations that send organization members or staff into the homes of vulnerable individuals, property-related crimes on an individual's "rap sheet" are most relevant due to the opportunities such positions provide for theft. It is not uncommon for organizations that offer in-home services to individuals with disabilities or to the elderly to receive allegations that their staff members or volunteers took valuable items from the homes of the service recipients.

Use of arrest data in screening processes for paid positions has been adjudicated as a discriminatory practice and is therefore barred under Title VII of the US Civil Rights Act of 1964.

Court decisions decree that screening criteria must be based upon convictions - not arrest information. Organizations may, however, consider any arrests for which final disposition is pending. This is especially true for individuals who have charges pending for which they could be disqualified if a guilty verdict were to be rendered. For example, if an applicant were arrested for child sexual abuse and were awaiting trial, the organization may disqualify the individual until the final disposition of the charge.

Other Factors

When establishing criteria for evaluating criminal history records, organization programs should consider what, if any, other factors should be taken into account. The five items listed below offer examples of circumstances organizations may consider when evaluating criminal history records. Rather than focusing on one or two of these factors, organizations should examine the totality of the record to determine if it should disqualify an applicant.

The recency of and circumstances surrounding the conduct in question--Crimes that occurred within the past year or two may be more reliable indicators of an individual's qualification status for organization service than crimes that occurred several years ago. This would be particularly true if the only crimes listed in the record happened several years ago with no recent offenses. (Keep in mind, however, that any convictions for child sexual abuse, rape, or other sexually exploitive offenses constitute an unacceptable level of risk extending throughout an individual's life.)

The age of an individual at the time of the offense--Many applicants are young adults; therefore, if they have a criminal record, their crimes were probably committed when they were juveniles. Organizations may consider this factor when evaluating criminal history records. In some states juvenile records will not be available as confidentiality laws protect them.

Societal conditions that may have contributed to the nature of the conduct--Organizations may consider the social context in which offenses occurred. For example, in some neighborhoods, becoming a gang member may be due to pressure exerted by the gang or to a perceived threat or harm that not joining a gang would create. While societal conditions should not serve to excuse illegal behavior, the context in which the illegal behavior occurred may be considered by organizations.

The probability that an individual will continue the type or behavior in question--Criminal history records that document a continuing pattern of repeated criminal offenses provide justification to believe that the individual represents a high risk for future criminal conduct. Also,

some forms of criminal sexual conduct, such as child molestation, have a high probability of repetition. Individuals with a high risk for continuing criminal behavior should not be assigned to work with vulnerable service recipients.

The individual's commitment to rehabilitation and to changing the behavior in question - When an applicant has a criminal history record that includes potentially disqualifying offenses, the organization may consider the steps the applicant has taken toward rehabilitation. Words of remorse alone are not sufficient evidence of an individual's commitment. Organizations should look for tangible evidence of the applicant's desire to lead a law-abiding life, such as progress in rehabilitation programs or making restitution to victims.

Applicants' Rights

Applicants have the right to be treated fairly and to have their privacy respected. Organizations are responsible for protecting these rights and therefore may need to establish and implement policies that achieve these objectives.

Criminal history databases are not perfect and sometimes a records check will falsely identify a person as having committed a crime. For this reason, applicants should be given a chance to challenge the accuracy of information that an organization receives.

The organization must inform the applicant of the nature of the information it received and the identity of the agency that provided the information. If the applicant wishes to challenge the accuracy of the information, he or she should be advised to communicate directly with the records repository. FCRA requires the organization afford the applicant 30 days to correct an error. It is best to let the applicant resolve any disputes with the criminal justice agency from which the organization received the information. Until the organization receives a correction from the criminal history records repository, it should assume that the information it received is correct.

Fingerprints are the only positive means of identification. One way to confirm the identity of individuals about whom the organization receives negative information is to require a

confirmation of the applicant's identity through a fingerprint check when the original criminal history records check was not based on fingerprints.

Many jurisdictions levy criminal and civil penalties against organizations and individuals who misuse or negligently handle the information obtained through criminal history record checks. Because laws in each jurisdiction may be different, organizations should ascertain from their state's criminal records repository what, if any, legal requirements apply to their custodianship of criminal history information. Appendix B provides a list of state criminal history record repositories.

The absence of specific legal requirements in this area may not relieve the organization of its obligation to protect the privacy of the applicant. Due to the sensitive nature of the information that an organization may receive pursuant to a criminal history records check and the fact that it could be incorrect, organizations should take steps to prevent its accidental disclosure. Organizations should consider establishing policies governing who has access to the information, how it is stored, and how it is to be destroyed once it is no longer needed by the organization.

Conducting Criminal History Record Checks

When an organization includes criminal history record checks in its screening procedures, it should inform applicants of that fact on the application form and obtain their permission to conduct the screening. The application might ask if the individual has been convicted of committing any of the offenses the organization establishes as relevant. Alternatively, some organization programs ask whether the individual has been convicted of any criminal offense; if the answer is "yes," the application then asks for details about the offenses.

To remove any ambiguities, an application form may list each specific offense and include both "yes" and "no" boxes for applicants to check to indicate if they have or have not been convicted of the listed offense. If the "yes" box is checked, additional information should be requested such as the date of the offense, where the crime was committed, the disposition of the matter,

and any other factors the applicant thinks the organization should consider.

The application should also explicitly state that applicants, who provide false information shall be disqualified for, or terminated from, service.

Organizations may either request criminal history record information through the law enforcement agency designated by their state's laws, or retain a private firm that specializes in conducting criminal history record checks. Each of these options is discussed below.

Criminal History Record Repositories

When seeking access to criminal history records through a law enforcement agency, organizations should contact their state criminal history records repository (Appendix B) to inquire about the process for conducting criminal history record checks. Even when an organization conducts a national records check through the FBI, access to the national criminal history database is governed by the state in which the organization is located.

State Record Checks

When using name-based criminal history record checks, the organization should verify the applicant's identification with a driver's license or other official, picture identification. With so many fraudulent documents floating around, a driver's license is not the most reliable form of personal identification.

Most states conduct name-based criminal history records checks and therefore do not require fingerprints. Name-based record checks take considerably less time to complete than fingerprint-based checks. Organizations submit the applicant's name, date of birth, current address, sex, and, in some states, social security numbers. When submitted information matches information in a criminal history record, fingerprints may be required to positively link the applicant to the criminal history record. Most states report that they complete state criminal history record checks within two-to-three weeks after they receive the request.

Each state establishes its own requirements for processing criminal history record checks. Some states require organizations to use an official form for their requests. Often these forms require the signature of the person on whom the check is being conducted. Other states may require requests to be submitted using the requesting organization's letterhead. Some states have established on-line computer access to enable organizations to submit their requests for criminal history record checks electronically. Most of the procedures used by the states can readily be incorporated into organizations' screening processes for Organization members and staff.

A suggested guideline for conducting criminal history record checks of Organization members and staff is to check a minimum of the past five years.

The costs of state criminal history record checks vary from state to state. A few states perform these record checks as a public service at no cost. In states where a fee is required, the fees range from \$5 - \$25 per record check. Organizations may request funds in their project budgets for the purpose of conducting criminal history record checks.

State level checks will reveal only convictions for crimes that occurred within the state. For this reason, state level criminal history record checks may not suffice for individuals who have resided in a state for only a short period of time or who have moved from state to state.

Organizations should check other states of residence or conduct a national records check to adequately screen these applicants.

National Record Checks

For an organization to conduct national-FBI-criminal history record checks, the state in which the organization is located must have enacted legislation authorizing access to FBI criminal history records for screening individuals for non-criminal justice purposes. FBI record checks for Organization members and staff cost \$24 per individual plus the cost of a state check.

For a national records check, the FBI requires that:

- The applicant provide a complete set of readable fingerprints and sign a statement indicating whether he or she has ever been convicted of a crime. If he or she has been convicted of a crime, a written statement must describe the crime and give the particulars of the conviction.
- The organization must inform the applicant that it may request a record check for the position sought.
- The organization must inform applicants of their rights to obtain a copy of any background report and to challenge the accuracy and completeness of the information before a final determination of eligibility is made.
- The organization submits the information to the state criminal records repository that conducts a state records check first which in turn, forwards the request to the FBI. Any matches found in the FBI record checks are confirmed through fingerprint analysis before a report is sent to the state. The state agency then sends its report to the organization. Very seldom does the FBI communicate with an organization directly.

From the time a national criminal history record check request is submitted, it typically takes about six weeks to receive a report; however, it may take up to six months. The poor quality of fingerprints submitted for identification is a common reason that FBI record checks take as long as they do. The FBI reports that even when a trained technician takes the fingerprints, it has to reject a significant percentage because they are unreadable. The FBI requires a complete set (all ten fingers) of clear, readable prints for non-criminal justice record checks.

Local Criminal History Record Checks

Using local criminal justice agency records for screening organization members and staff is cumbersome and should be avoided except perhaps in New York and Puerto Rico where all access to criminal history records for non-criminal justice screening is extremely restricted. The most common local sources of criminal history records are court documents. Organizations needing information from these records should contact the clerk of the court to determine how to gain access.

When using local criminal history records, organizations should remember that the information obtained is limited to cases processed by the agency providing the information. Organizations may need to check several local sources to screen applicants who have moved from county to county within a state. Costs for local record checks range from \$5 to more than \$25 per jurisdiction.

Sex Offender Registries

Under the auspices of state and federal "Megan's Laws," nearly every state has established sex offender registries. These databases are lists of individuals who have been convicted of criminal sexual conduct ranging from child molestation to rape. While the scope of offenses included in sex offender registries is limited, such registries offer an advantage that state criminal history record checks do not—they list sex offenders living in the state irrespective of where their convictions occurred. According to the law, individuals who have been convicted of specific sexual crimes are required to register when they move into a new state. Sex offender registries have the potential for offering a

powerful screening tool designed to prevent sexual predators from gaining access to additional victims. While it is too soon to evaluate their effectiveness, organizations should not overlook the potential they offer.

Private Screening Firms

The intense interest in the use of criminal history records for screening individuals who work with children has encouraged private security firms to expand their services by offering criminal history screening programs. Organizations may find that retaining the services of a private firm to conduct criminal history record checks expedites the screening process as these firms create and maintain their own databases of criminal history information and are often able to provide extremely rapid responses to record check requests. In addition to the comparatively quick response to inquiries, private firms often offer additional screening services such as confirmation of academic credentials or motor vehicle record checks.

The cost of retaining a private firm to conduct criminal history screening may be somewhat higher than accessing records through a state agency. The companies offering criminal history background checks realize, however, that they must be competitively priced in order to attract customers. Some users of private screening services find that the increased costs are more than justified by the reduction in administrative time and inconvenience. This is especially true when information must be obtained from several jurisdictions.

When selecting a private firm to assist with screening, organizations should review the services available and ask for client lists to check references. The most relevant clients to contact for recommendations concerning a screening service are those most similar to the prospective user of the service.

Some organizations conduct comparison tests when making a selection of private screening firms. To do this, the organization submits a list of names that includes a few individuals with known records. The object of the test is to see which firm offers the most thorough screening by identifying the "plants" and providing the results in a timely manner. Organizations should check very carefully the process the firm uses to ensure that recent offenses are included in

the data bases used for screening.

Interpreting Criminal History Record Check Results

When an organization receives a report that an applicant has no criminal history record, it would like to conclude that the records check means that the individual is an honest, upstanding citizen with impeccable integrity. Unfortunately, no criminal history record check will document these attributes. The lack of a criminal history record cannot be used to predict future lawful behavior.

As mentioned earlier, criminal history databases are not perfect. Just as an applicant may be erroneously identified as having a criminal history record, an applicant with a record can just as easily be identified as not having a record. Unless the record check was based upon fingerprint comparisons, the individual may have used a false name. Therefore, a clean record merely means that no record of past criminal convictions was found for the individual in question.

When an applicant is found to have a criminal history record, the organization should first confirm that the individual has not been identified erroneously. Next the organization needs to apply the criteria and other factors listed earlier in this booklet. If an individual has been convicted of any disqualifying offenses without sufficient mitigating circumstances, the organization may have no choice but to disqualify the applicant from positions as Organization members or staff that involve substantial direct contact with children or providing in-home services to children or other service recipients the organization identifies as "vulnerable."

Conclusion

Although criminal history record checks have limitations, one value they appear to have is to discourage individuals who have disqualifying criminal history records from applying for positions when organizations publicize the fact that they conduct criminal history record checks. They also identify many individuals who have been convicted of offenses and

attempt to gain access to potential victims through volunteer or paid positions.

While criminal history record checks can be a valuable risk management tool, they are not a complete answer. Organizations offering services to children and other vulnerable service recipients should take other, aggressive steps to ensure the safety of those they serve.

In addition to thorough screening, organizations must provide adequate training and supervision of Organization members and staff. Training should be offered to develop the skills necessary to perform the duties of the position as well as provide knowledge of the organization's policies and procedures for protecting service recipients and staff from inappropriate or criminal conduct. An effective way to deter victimization of vulnerable service recipients is to have a policy that requires reporting all suspicious conduct to a law enforcement or protective services agency.

Supervision practices should permit close monitoring of Organization member and staff relationships with children and other vulnerable service recipients. To the degree possible, isolated one-on-one contact between Organization members, staff and service recipients should be minimized. When one-to-one contact is necessary, frequent telephone or face-to-face contact between supervisors and service recipients should be arranged.

Criminal predators often use positions in service organizations as legitimate means for establishing contact with their victims. Victimization occurs when the relationship is extended beyond the boundaries established by the organization. This is especially true in instances of child molestation and when elderly service recipients are bilked out of their life savings. To prevent these kinds of criminal conduct, organizations need to establish policies limiting contact between Organization members, staff, and service recipients outside of officially authorized activities.

Since the focus of this community service brief is criminal history record checks, a comprehensive review of other strategies for protecting vulnerable service recipients is not provided. Organizations are reminded, however, that even the most comprehensive criminal

history record checks need to be coupled with other risk management procedures such as the ones mentioned above.■

Appendix :

Considerations for Conducting Criminal History Record Checks

- Adopt a policy requiring criminal history record checks that is at least as rigorous as the provisions of the Corporation's grant condition.
 - Identify positions that require applicants to be screened using criminal history record checks.
 - Check with state agencies to determine if there are any requirements for criminal history record checks for the organization's Organization assignments with vulnerable clientele.
 - Develop a list of disqualifying offenses and mitigating circumstances to be taken into account.
 - Contact the state criminal history record repository for information concerning how to obtain criminal history record checks in your state, or retain a private firm to conduct criminal history record screening.
 - Arrange the necessary funding to pay for criminal history record checks.
 - Review and revise application forms to reflect the requirements for performing criminal history record checks (or use the national application form).
 - Formulate an appeals process for applicants who feel that the information received by the organization is incorrect.
 - Implement your screening process using criminal history record checks.
 - Document the records check in the individual's personnel file.
-

Appendix:**State Criminal History Record Repositories****Alabama**

Alabama Bureau of Investigation
Department of Public Safety
P.O. Box 1511
Montgomery, AL 36192-0501
(205) 242-4372

Alaska

Administrative Service
Alaska Department of Public Safety
P.O. Box 11 1200
Juneau, AK 99811
(907) 465-4336

Arizona

Arizona Criminal Information
Services Section
Arizona Department of Public Safety
P.O. Box 6638
Phoenix, AZ 85005-6638
(602) 223-2272

Arkansas

Arkansas Crime Information Center
One Capital Mall
Little Rock, AR 72201
(501) 682-2222

Missouri

Criminal Records Division
Missouri State Highway Patrol
P.O. Box 568
Jefferson City, MO 65102
(314) 751-3313

Mississippi

Records and Identification Division
Criminal Investigation Bureau
Department of Public Safety
P.O. Box 958
Jackson, MS 39205
(601) 987-1564

Montana

Bureau of Identification
Montana Department of Justice
303 North Roberts, Room 374
Helena, MT 59620
(406) 444-3625

Nebraska

Criminal Identification Division
Nebraska State Patrol
P.O. Box 94907
Lincoln, NE 68509-4907
(402) 471-4545

California

Bureau of Criminal Identification
California Department of Justice
P.O. Box 903417
Sacramento, CA 94203-4170
(916) 739-5144

Colorado

Crime Information Center
Colorado Bureau of Investigation
690 Kipling Street #3000
Denver, CO 80215-5844
(303) 239-4224

Connecticut

Connecticut State Police
Bureau of Identification
Department of Public Safety
294 Colony Street
Meriden, CT 06450
(203) 238-6151

Delaware

State Bureau of Identification
Delaware State Police
P.O. Box 430
Dover, DE 19903
(302) 739-5872

District of Columbia

Nevada

Nevada Highway Patrol
Criminal Information Services
555 Wright Way
Carson City, NV 89711-0585
(702) 687-5713

New Hampshire

New Hampshire State Police
James H. Hayes Safety Building
10 Hazen Drive
Concord, NH 03305
(603) 271-2535

New Jersey

Records and Identification Section
New Jersey State Police
P.O. Box 7068
West Trenton, NJ 08625-0068
(609) 882-2000

New Mexico

Technical and Emergency
Support Division
Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628
(505) 827-9181

New York

Identification and Records Division
Metropolitan Police Department
300 Indiana Avenue NW, Room 2100
Washington, DC 20001
(202) 727-4432

Florida

Division of Criminal Justice
Information Systems
Florida Department of Law Enforcement
P.O. Box 1489
Tallahassee, FL 32302
(904) 488-3961

Georgia

Crime Information Center
Georgia Bureau of Investigation
P.O. Box 370748
Decatur, GA 20037-0748
(404) 244-2601

Hawaii

Hawaii Criminal Justice Data Center
Department of the Attorney General
Kekuanao's Building, Room 101
465 South King Street
Honolulu, HI 96813
(808) 548-2090

Iowa

Division of Criminal Justice Services
Stuyvesant Plaza
Executive Park Tower
Albany, NY 12203
(518) 457-2351

North Carolina

Division of Criminal Information
North Carolina Bureau of Investigation
407 North Blount Street
Raleigh, NC 27601-1009
(919) 733-3171

North Dakota

Information Services Section
Bureau of Criminal Investigation
P.O. Box 1054
Bismarck, ND 58502
(704) 221-6180

Ohio

Identification Division
Ohio Bureau of Criminal
Identification and Investigation
P.O. Box 365
London, OH 43140
(614) 466-8204

Oklahoma

Bureau of Identification
Division of Criminal Investigation
Iowa Department of Public Safety
Wallace State Office Building
Des Moines, IA 50319
(515) 281-5138

Idaho

Bureau of Criminal Identification
Idaho Department of Law Enforcement
700 South Stradford
Meridian, ID 83642
(208) 884-7134

Illinois

Bureau of Identification
Division of Forensic Sciences and Identification
Illinois State Police
260 North Chicago Street
Joliet, IL 60431-1060
(815) 740-5160

Indiana

Indiana State Police
Records Division
100 N. Senate Avenue
Indianapolis, IN 46204
(371) 232-8262

Kansas

Kansas Bureau of Investigation
1620 Tyler Street

Identification Division
Oklahoma Bureau of Investigation
P.O. Box 11497
Oklahoma City, OK 73136
(405) 848-6724

Oregon

Oregon State Police
Identification Services Section
3772 Portland Road, NE
Salem, OR 97303
(503) 378-3-70

Pennsylvania

Bureau of Records and Information Services
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110
(717) 783-5588

Rhode Island

Bureau of Criminal Identification
Department of the Attorney General
72 Pine Street
Providence, RI 02903
(401) 421-5268

South Carolina

Criminal Records Division
South Carolina Law Enforcement Division

Topeka, KS 66612
(913) 232-6000

Kentucky

Information Services Branch
Kentucky State Police
1250 Louisville Road
Frankfort, KY 40601
(502) 227-8700

Louisiana

Bureau of Criminal Identification
Office of State Police
P.O. Box 66614
Baton Rouge, LA 70896
(504) 925-6095

Maine

Identification Division
State Bureau of Identification
Maine State Police
36 Hospital Street
Augusta, ME 04330
(207) 624-7009

Maryland

Data Services Division
Department of Public Safety and Correctional
Services
P.O. Box 5743
Pikesville, MD 21208
(410) 764-4200

Massachusetts

P.O. Box 21398
Columbia, SC 29221
(803)737-9070

South Dakota

Division of Criminal Investigation
Office of the Attorney General
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3331

Tennessee

Tennessee Bureau of Investigation
1148 Foster Avenue
Nashville, TN 37210-4406
(615) 741-0430

Texas

Crime Records Division
Texas Department of Public Safety
P.O. Box 4143
Austin, TX 78765
(512) 465-2077

Utah

Bureau of Criminal Identification
Utah Department of Public Safety
4501 South 2700 West
Salt Lake City, UT 84119
(801) 965-4571

Vermont

Criminal History Systems
History Board
200 Arlington Street, Suite 2200
Chelsea, MA 02150
(617) 660-4600

Vermont Criminal Information Center
Department of Public Safety
P.O. Box 189
Waterbury, VT 05676
(802) 244-8727

Michigan

Central Records Division
Michigan Department of State Police
7150 Harris Drive
Lansing, MI 48913
(517) 322-1951

Virginia

Records Management Division
Virginia State Police
P. O. Box 27472
Richmond, VA 23261-7472
(804) 674-2021

Minnesota

Criminal justice Information System
Bureau of Criminal Apprehension
Department of Public Safety
1246 University Avenue
St. Paul, MN 55104
(612) 642-0687

Washington

Criminal Records Division
Washington State ID System
QE-02
Olympia, WA 98504-0000
(206) 753-68S8

PATTERSON, JOHN C., 2004, CRIMINAL HISTORY RECORD CHECKS, NONPROFIT RISK MANAGEMENT CENTER, 1130 SEVENTEENTH STREET, NW, SUITE 210, WASHINGTON, DC 20036, PHONE: (202) 785-3891 | FAX: (202) 296-0349, [SEND US E-MAIL](#)

Summary of Organizational Responsibilities UNDER FAIR CREDIT REPORTING ACT

Step 1: Notice and Disclosure

- Applicants must be required to read and sign the Consumer Authorization Form notifying them that you organization screens their applicants before hiring.
- Be sure to copy the completed form to give to the applicant. Keep your copy in a secure file separate from your employee files.

Step 2: Authorization

- Require your applicants to complete a Consumer Authorization Release granting permission to process their background. This form serves as notification to schools employers and other government agencies that your applicant has granted permission to you to access their records.
- File the release in a secure file separate from your employee files. This release will fulfill audits requirements when they arise.

Step 3: Summary of Rights

- Provide your applicant with a summary of their rights. This document will explain the applicant's recourse in the event when disputing information on the background report or what to do when they are victim of identify theft.

Step 4: Adverse Action

- Be sure you are familiar with Adverse Action protocol when denying employment based on a background report. An applicant has the right to dispute the information prior to the denial of employment so a pre-decision communication to the applicant is important in maintaining compliance for your organization.

SAMPLE ADVERSE EMPLOYMENT ACTION LETTER

In compliance with the Fair Credit Reporting Act, employers are required to notify an applicant if information obtained from a consumer reporting company is used, in whole or in part, in the decision to deny employment. The notification should be in the form of a letter such as the sample below. The letter must contain the name, address and the phone number of the consumer reporting company. This allows the applicant the opportunity to dispute the information if they believe it is incorrect.

Date

Ms. Employment Applicant

123 Any Street

City, State Zip

Dear Ms. Applicant:

Your application for employment with **(your organization)** has been denied. This decision was made, in whole or in part, based on information obtained from:

Name of Background Screening Service Provider

Address

Telephone NO.

FAX No.

Web address (if applicable)

This letter is sent to you in compliance with the Fair Credit Reporting Act.

Please note, (Name of service provider), DID NOT make the decision to take the adverse action and is unable to provide you with the specific reasons as to why the adverse action was taken.

Sincerely,

Your Administrator

Your Organization

SAMPLE PRE - ADVERSE ACTION LETTER

Ms. Employment Applicant

123 Any Street

City, State Zip

Dear Ms. Employment Applicant:

As part of the employee selection process for **(your organization)** and with your express written consent, **(name of service provider)** processed your background report. The report contains information, which if accurate, would prevent (your organization) from offering you employment at this time. Due to the information contained on your background report, **(your organization)** is providing you with a copy of the background report along with a summary of your rights under the law.

If you wish to inquire about the specific information in the report not meeting its employment criteria, please contact **(your organization)** directly. Otherwise we will assume that you no longer wish to pursue employment with their organization. **(name of service provider)** did not make this decision and will be unable to provide you with the specific reason why this action was taken.

If, after reviewing the report, you believe the information it contains is inaccurate, under the law, you have a right to dispute, directly with **(name of service provider)**, any of the information in the report. If you choose to dispute the information, **(name of service provider)** will:

1. Re-investigate the disputed information free of charge and either record the current status of the disputed information or delete it if necessary within 30 days of receiving your dispute
2. Provide notification of the dispute to any person who provided the information you dispute within five business days of receiving your notice of dispute

3. If the information is found to be inaccurate or incomplete or cannot be verified, we will promptly delete that item or modify it
4. Immediately contact its client to report the disposition of the dispute

You have the right to obtain an additional free copy of this report if you request it from **(name of service provider)** within 60 days of when you receive this notice.

If you wish to dispute the accuracy of the report, you may contact **(name of service provider)** at:

Name of service provider

Address

Telephone No.

Fax No.

Web address if applicable

Before **(name of service provider)** can discuss this information with you on the phone, they require a signed authorization from you by mail or FAX. An authorization form, which you may use for this purpose, is enclosed for your convenience.

Sincerely Yours,

Your Administrator

Your Organization

Enclosure: Background Report, Summary of Rights, Applicant Dispute Form

Appendix – Schools Performing Background Checks on All Employees**University Employee Background Checks**

Arizona State University

[Mandatory Background Checks for Employees and Process for Hiring, Retaining, or Terminating Employees Convicted of a Felony Offense](#)

Central Michigan University

[Criminal History Checks](#)

Community College of Denver

[Background Checks](#)

Hamilton College

[Background Screening Process for Non-Faculty Employees](#)

Fairleigh Dickinson University

[Background Checks](#)

Indiana University

[Policy on Background Checks for Academic Appointees](#)

Personnel Policies for All Staff at Indian University

http://www.nacua.org/lrs/NACUA_Resources_Page/BackgroundChecks/indianau.htm

Oklahoma State University

[Employment Checking Procedures](#)

Pennsylvania State University

[Academic Appointment Background Checks](#)

Regent University

[Background Check Policy](#)

Ramapo College of New Jersey

http://www.nacua.org/lrs/NACUA_Resources_Page/BackgroundChecks/ramapo.htm

Rochester Institute of Technology

[Implementation of Criminal Background/MVR Checks](#)

St. Edward's University

[Background Check Policy and Procedure](#)

University of Idaho

[Background Check Procedures for Applicants, Employees and Volunteers](#)

University of Texas at Austin

[Criminal Background Checks](#)

University of Texas at Dallas

[Criminal Background Checks](#)

Student Background Checks

University of Medicine and Dentistry of New Jersey
[Criminal Background Checks for Accepted Applicants for Admission to UMDNJ Schools and Educational Programs and for Currently Enrolled Students](#)

[Northeastern Illinois University--College of Education](#)

[Ohio State University--Medical Students](#)

[Southern Utah University--Teacher Education Placements](#)

[University of Washington--School of Nursing](#)

RESOURCE DOCUMENTS FROM National Association of College and University Attorneys NACUA

- [Background Check Authorization to Obtain a Consumer/Credit Report](#)
- [Background Check Release and Authorization](#)
- [Background Check Request Form for Faculty](#)
- [Background Check Request Form for Non-Faculty](#)
- [Background Check Request Form for Local Criminal History Verification ONLY \(temps only\)](#)
- [International Home Address\(es\) Form](#)
- [Reference Checking List \[Sample questions\]](#)