

DEVELOPMENTAL DISABILITIES ADMINISTRATION
Olympia, Washington

TITLE: BACKGROUND CHECK AUTHORIZATIONS 5.01

<p>Authority: RCW 43.20A.710</p> <p>Chapter 74.15 RCW</p> <p>RCW 74.39A.056</p> <p>RCW 43.43.830 - 845</p> <p>Chapter 9.96A RCW</p> <p>Chapter 388-101 WAC</p> <p>Chapter 388-101D WAC</p> <p>Chapter 388-113 WAC</p> <p>Chapter 388-825 WAC</p> <p>WAC 162-12-140</p>	<p><i>Investigation of Conviction Records or Pending Charges of State Employees and Individual Providers</i></p> <p><i>Care of Children, Expectant Mothers, Persons with Developmental Disabilities</i></p> <p><i>Criminal History Checks on Long-term Care Workers</i></p> <p><i>Background Checks</i></p> <p><i>Restoration of Employment Rights</i></p> <p><i>Certified Community Residential Services and Supports</i></p> <p><i>Requirements for Providers of Residential Services and Supports</i></p> <p><i>Disqualifying Crimes and Negative Actions</i></p> <p><i>Developmental Disabilities Service Rules</i></p> <p><i>Pre-employment Inquiries</i></p>
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BACKGROUND

[RCW 43.43.830-845](#) requires DSHS to conduct background checks on persons who may have unsupervised access to individuals with developmental disabilities.

[RCW 74.15.030](#) requires DSHS to consider the character, competence, and suitability, of persons or agencies who are authorized to care for individuals with developmental disabilities, prior to authorizing care. For persons who have resided outside Washington state within the last three years, the applicant's fingerprints must be submitted for a national criminal history record check through the Federal Bureau of Investigation (FBI).

[RCW 74.39A.056](#) requires long-term care workers (see Definitions) to have fingerprint-based checks prior to initial hire or initial contract.

PURPOSE

This policy describes procedures for background check authorizations for Developmental Disabilities Administration (DDA) providers and staff.

SCOPE

This policy applies to:

- DDA staff that initiate or manage contracts;
- County staff;
- DDA-funded programs and services contracted through a county, including employment and day program services and Community Information and Education services providers; and
- The following DDA-contracted residential service programs:

For adults:

- Supported living (SL)
- Group homes (GH)
- Group training homes (GTH)
- Companion homes (CH)
- State-operated living alternatives (SOLA)
- Community intermediate care facilities for persons with intellectual disabilities (ICF/IID)
- Alternative living (AL)

For children:

- State-operated living alternatives (SOLA)
- Community crisis stabilization services (CCSS)

Service provider employees, administrators, owner-administrators, subcontractors, volunteers, and any other employee who may have unsupervised access to a DDA client must have a background check except as noted below.

DDA direct hires (except SOLA employees), volunteers, and student interns are not covered by this policy. Refer to [DSHS Administrative Policy 18.63](#), *Employee Background Check Requirements*. This link is available on the DSHS intranet website only.

For Children's Licensed Staff Residential Programs, DDA accepts background check results from the Department of Children, Youth, and Family. No separate DDA background check is required. ALTSA and DDA share contracts for individual providers. Contracting staff may search the ALTSA and DDA reports in BCS to look up shared background checks.

For agencies who also conduct work through the Division of Vocational Rehabilitation (DVR), DDA and DVR background checks must be completed.

DEFINITIONS

Applicant means an employee, volunteer, student, intern, licensee, service provider, contractor, or other person who is the subject of the background check and who will work in a position that may have unsupervised access as defined in RCW 43.43.830 to minors or vulnerable adults.

Background check means a Washington state name and date of birth check or a fingerprint check, or both.

Initial background check means the first background check that is completed for purposes of hiring or contracting with an applicant.

Washington state name and date of birth check means a search of Washington state criminal history and negative action records using the applicant's name and date of birth.

Interim background check means a preliminary notification of a fingerprint-based background check process. This is provided once a Washington state name and date of birth check is completed before the applicant is fingerprinted.

Fingerprint-based background check means a Washington state name and date of birth search, a fingerprint-based search of in-state criminal history records through the Washington State Patrol, and a national criminal history check through the Federal Bureau of Investigation.

Renewal background check means a background check completed for purposes of renewing a contract or qualification for employment.

Background Check Central Unit (BCCU) means a division within the department that processes background checks for department-authorized service providers and department programs who serve vulnerable individuals across Washington state.

Background check system (BCS) means a web-based online system for processing background checks. For information and training materials, see the [Background Check System Project](#) website.

Character, competence, and suitability (CCS) Review means the screening and assessment of the potential personal and professional capability of an employee or applicant to work with or serve people with developmental disabilities based on a review of crimes and negative actions.

Community residential service business means a business as described in [RCW 74.39A.009 \(5\)](#).

Contractor means a provider contracted with DSHS to provide services to DDA clients and who may hire employees.

Department means the Department of Social and Health Services.

Entity means whoever submits a background check on behalf of an applicant.

Instruction and support services (ISS) staff means long-term care workers of the service provider whose primary job function is to provide instruction and support services to clients. Instruction and support services staff includes employees of the service provider whose primary job function is to supervise the instruction and support services staff. In addition, both applicants, prior to initial certification, and administrators, prior to assuming duties, who may provide instruction and support services to clients must be considered instruction and support services staff for the purposes of the applicable training requirements.

Inquiry ID number means a unique number assigned to each inquiry by the BCCU to track individual background checks.

Long-term care worker means someone who provides paid, hands-on personal care services for the elderly or people with disabilities, including but not limited to, individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to people with developmental disabilities under [Title 71A RCW](#), all direct care workers in state-licensed assisted living facilities and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or people with functional disabilities or developmental disabilities.

Negative action means any action taken against the applicant, including but not limited to:

- A decision issued after a due process civil adjudicative proceeding by a state agency or an Administrative Law Judge showing a finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a child, juvenile, or vulnerable adult;
- Termination, revocation, suspension, or denial of a professional license, certification, or state or federal contract;
- Relinquishment of a license, certification, or contract in lieu of negative action;
- Revocation, suspension, denial, or restriction placed on a professional license; and
- Disciplinary board final decisions.

Parent means the natural or adoptive mother or father of a child, including a presumed father under [Chapter 26.26 RCW](#). It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

Pending charge means a criminal charge for a disqualifying crime has been filed in a court of law. The department has not received documentation showing the disposition of the charge.

Primary account administrator (PAA) means the person required to be registered by BCCU who is responsible for providing access for other BCS users, assigning and removing user roles, pulling reports, submitting background checks to BCCU and viewing results letters.

Provider means any individual or entity that provides services under contract with DDA.

Record of arrest and prosecution (RAP sheet) means a record kept by law-enforcement authorities of a person's arrests and convictions.

Roll means printing or scanning an applicant's fingerprints on the Washington State Patrol (WSP) or FBI identification card.

Secure Access Washington (SAW) means the central login that allows access to the online services of multiple state agencies.

Self-disclosure means crimes and negative action information provided directly by the applicant.

Unsupervised access means not in the presence of:

- Another employee or volunteer from the same business or organization as the applicant; or
- Any relative or guardian of a child with a developmental disability or vulnerable adult to which the applicant has access during the course of their employment or involvement with the business or organization ([RCW 43.43.830](#)).

Volunteer means any person who will have regularly scheduled unsupervised access to persons with a developmental disability during the course of their involvement with the business or organization.

Vulnerable adults means adults of any age who lack the functional, mental, or physical ability to care for themselves ([RCW 43.43.830](#)).

POLICY

- A. Any person who may have unsupervised access to DDA clients must complete a background check through the DSHS Background Check Central Unit and have a non-disqualifying DSHS background check result.
- B. Beginning January 1, 2016, all new long-term care workers must have fingerprint-based background checks before allowing unsupervised access to DDA clients. See Procedures Section I, *Provisional Hire*.
- C. A character, competence and suitability (CCS) review must be completed, before allowing unsupervised access, when background check results reveal non-disqualifying

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- crimes or negative actions. If the applicant receives a “Review Required results letter, the employer must complete a CCS review.
- D. Background checks must be renewed at least every three years, or more frequently if required by program rule. Background checks for individual providers, alternative living, companion homes, group homes, and adult family homes are renewed every two years.
 - E. A person must not work in a position where they may have unsupervised access to DDA clients if their background check is expired.
 - F. A person who has resided fewer than three continuous years in Washington state must have fingerprint-based background checks. This includes a person who resides out of state and works in Washington State.
 - G. Any person who may have unsupervised access to DDA clients must self-disclose to their hiring authority any pending or new criminal charges that occur between regularly scheduled background checks.
 - H. If a person works before the initial background check result, the service provider must develop and maintain a detailed supervision plan, including who will provide the supervision and how breaks will be managed.

PROCEDURES

- A. Starting June 26, 2018, all background checks must be completed through the [online background check system](#) and there will be no more fax machine operations at BCCU.
- B. Each BCCU Account Number must register a Primary Account Administrator (PAA) who will manage the user roles on the account.
- C. For an entity to submit and receive background check results, the entity must have a [Secure Access Washington](#) account, unless the entity has an existing “.wa.gov” email address.
- D. The entity will determine if the applicant needs a Washington state name and date of birth background check only, or a fingerprint check, and then check the appropriate box when submitting the application to BCCU via the online background check system. See Attachment A.
- E. A minor required to complete a background check must have a parent or legal representative sign on their behalf.
- F. **Washington state name and DOB background checks**
 - 1. An applicant must complete the [background check authorization form online](#). The applicant does not need an account to complete the form.

Although it is not recommended, the entity may submit the online background authorization form on the applicant's behalf if the applicant completes a paper background authorization form.

2. The website provides the applicant with a confirmation code, which the applicant must provide to the requesting entity with their date of birth. The applicant may use the confirmation code for any requesting entity for 90 days.
3. The entity must enter the confirmation code into the background check system and verify that the applicant's name and date of birth on their photo identification matches the information in the online background check authorization form. Acceptable photo identification includes any federal, state, or local government-issued ID, US military ID, US or foreign passport, or federally recognized tribal ID.
4. The entity must choose the correct applicant type and submit the background check request to BCCU through the background check system.
5. The entity must check the status of the background check through the online system. The homepage of the background check system will indicate the status of the check.

G. **Fingerprint-based background check process**

1. If an applicant needs a fingerprint check, indicate this when submitting the online background check. The entity must not select Washington state name and date of birth check if a fingerprint check is required. A fingerprint check includes a Washington state name and date of birth background check.
2. Once the interim Washington state name and date of birth results are posted, the system will ask the entity if they want to continue with the fingerprint check.
 - a. If the entity continues with the fingerprint check, the system generates forms [DSHS 27-059](#), *Fingerprint Appointment*, and [DSHS 27-089](#), *Fingerprint Notification*, which must be completed to schedule a fingerprint appointment.
 - b. The entity must retain a signed copy of the fingerprint notification form and give a copy to the applicant.
3. Either the entity or the applicant schedules the electronic fingerprinting appointment at the nearest DSHS-contracted electronic fingerprinting location by:
 - a. Visiting the [IdentoGO](#) website; or
 - b. Calling **1-888-771-5097** (Monday-Friday 8 a.m. – 5 p.m.).

4. The applicant attends the fingerprinting appointment with a copy of the completed [DSHS 27-059, Fingerprint Appointment](#) form and picture identification.
5. The electronic fingerprinting company provides the applicant with an appointment confirmation receipt and sends electronic prints to the BCCU for completion of the fingerprint check. The entity must retain a copy of this receipt from the applicant.
6. The entity must check the status of the fingerprint check through the online system. The homepage of the background check system will indicate the status of the check.

H. Alternative Fingerprinting Resources

1. Fingerprinting resources other than the DSHS electronic fingerprinting contracted vendor may be used when no other option is available. Circumstances that may justify non-electronic fingerprinting include:
 - a. Extreme weather conditions;
 - b. Health issues;
 - c. A commute of greater than 50 miles; or
 - d. A long delay for scheduling an appointment with the electronic fingerprint vendor.
2. Alternative fingerprinting resources are limited to a local law enforcement agency or a qualified person trained by the Washington State Patrol to roll fingerprints.
3. When using alternative fingerprinting resources, proceed as follows:
 - a. The entity provides the applicant with an original FBI fingerprint card and instructions for getting fingerprints rolled.
 - b. The applicant provides the FBI fingerprint card to the rolling agency and has fingerprints rolled.
 - c. The applicant or service provider pays the fingerprint rolling fee, if applicable.
 - d. The entity mails the completed card to BCCU with the background authorization form and the applicant's identification documentation.
 - e. The entity must request and retain confirmation that the applicant's fingerprints were rolled.

I. Provisional Hires

1. A service provider may allow a person to work unsupervised for 120 days when a fingerprint background check is pending. This is considered a provisional hire. The following conditions must be met:
 - a. The applicant or service provider is not disqualified based on the initial result of the state background check from DSHS; and
 - b. A CCS has been done for any non-disqualifying crimes or negative actions revealed by the initial result.
2. A service provider making a provisional hire must ensure fingerprints have been submitted before the provisional hire by retaining a copy of the fingerprint receipt or confirmation that the applicant's fingerprints were rolled.
3. For an individual provider, the case manager must ensure the client or their legal representative completes [DSHS 11-055](#), *Acknowledgement of My Responsibilities as the Employer of My Individual Providers* form on an annual basis. The CRM or Social Worker must document the client or their legal representative's provisional hiring decision for each individual provider hired in a Service Episode Record.

J. Background Check Results Letters

1. The background check system will generate one of the following result letters in response to the background check:
 - a. A ***"No Record"*** results letter indicates that no disqualifying crimes or negative actions were found during the background check. However, the entity remains responsible to determine the applicant's suitability for employment;
 - b. A ***"Review Required"*** results letter indicates the background check found the applicant has a record of criminal conviction or other negative actions that do not automatically disqualify the individual. However, the entity must complete a written Character, Competence, and Suitability review of the applicant to determine whether or not it would be appropriate to hire the applicant;
 - c. A ***"Disqualify"*** results letter indicates the applicant has a record of criminal conviction or other negative actions that may disqualify the applicant from employment. If an existing employee receives this results letter the service provider must ensure they are immediately restricted from having unsupervised access to DDA clients. For employees hired

prior to July 24, 2014, refer to [WAC 388-113-0040](#) for exceptions that may apply; or

- d. An “***Additional Information Required***” results letter indicates more information is needed in order for the background check to be completed. The background check status is considered pending until additional information is received by the BCCU and a final results letter is returned to the requesting entity. The requesting entity may receive this results letter in response to a:
 - 1) **Initial or interim background check:** Background check is not considered complete and applicant must not have unsupervised access to clients.
 - 2) **Fingerprint check:** Applicant can work through a provisional hire but must submit the needed information to BCCU and resolution must be reached by the 120th day.
 - 3) **Renewal:** Applicant must submit the needed information to BCCU and resolution must be reached within 30 days.
2. The entity must retain a copy of the results letters and attachments according to retention requirements.
3. BCCU mails the applicant a copy of their background check results unless the result is “no record.” The entity must provide a copy of the background results letter and attachments to the applicant within ten days if:
 - a. The result is “no record;” or
 - b. The applicant requests a copy of the results.
4. Fingerprint results for nongovernmental entities do not include FBI RAP sheets. The nongovernmental entity must obtain the FBI RAP sheet from the applicant. The applicant will receive the results in the mail from BCCU. The applicant may request an additional copy of the results from BCCU by submitting [DSHS 27-110](#).

K. Disqualifications

1. DSHS must automatically disqualify an applicant if his or her background check reveals a crime or negative action on the list of disqualifying crimes and negative actions in [Chapter 388-113 WAC](#).
2. Individuals employed by Community Residential Service Providers (including administrators, owner-administrators, volunteers, and all staff) who receive a

DSHS background check with disqualifying results must not have unsupervised access to DDA clients or provide Instruction and Support Services.

3. DDA clients with disqualifying background check results who are employed by a service provider must not have any unsupervised access to other clients in the course of their employment duties.
4. For employees hired before July 24, 2014, refer to [WAC 388-113-0040](#) for exceptions that may apply.

L. Character, Competency, and Suitability Review

1. When a background check result from BCCU indicates an applicant's character, competence, and suitability (CCS) must be reviewed, the following information must be considered:
 - a. The amount of time that has passed since the conviction or negative action;
 - b. The seriousness of the crime that led to the conviction or finding;
 - c. The number and types of other convictions in the applicant's background;
 - d. Applicant's age at the time of conviction;
 - e. Documentation indicating successful completion of all court-ordered programs and restitution;
 - f. Review of FBI RAP sheets (if the source on the result indicates fingerprint check);
 - g. Applicant's behavior since the conviction; and
 - h. The vulnerability of those that would be under the applicant's care.
2. Under Chapter 388-825 WAC, the CCS review must also be conducted when an applicant has pending charges and negative actions that are not automatically disqualifying.
3. Entities must report to BCCU any new convictions, pending charges, and negative actions discovered during the CCS review.
4. The CCS review must be documented and maintained in the employee's file according to retention requirements. CCS reviews for renewal background checks can only be used again if there is no new or different information. In these cases, the reviewer should re-sign and date the CCS form, as well as indicate that there

have been no changes. If there is new or different information, a new CCS review must be conducted.

- a. A CCS template is available on the [DDA Residential Provider Resources](#) page.
- b. The CCS form for individual providers is [DSHS 10-468](#), *CCS Determination for Unsupervised Access to Minors and Vulnerable Adults*.
- c. An Agency may create their own form if it contains all the elements required in the CCS review under WAC.

M. Applicant Self-Disclosure

[DSHS 09-653](#), *Background Check Authorization*, requires the applicant to disclose their criminal background, licensing, and abuse and neglect information under penalty of perjury. If an applicant self-discloses a disqualifying crime, the employment process may end before verifying the disclosure.

N. Correcting Flawed Background Check Information

1. If an applicant reports that the conviction record is incorrect, direct the applicant to contact the reporting agency to have the conviction record corrected, and to contact BCCU to report the error.
2. If an applicant reports that negative actions on their background check are incorrect, direct the applicant to contact the agency that submitted the negative action and to contact BCCU to report the error.
3. The entity must report to BCCU when the information returned by BCCU does not match the applicant's identifying information provided to BCCU.

O. Obtaining or Changing BCCU Account Information

Providers must maintain a BCCU account for conducting background checks. The process for obtaining a new BCCU account is as follows:

1. Provide the DDA Background Check Program Manager with the provider's:
 - a. Business name;
 - b. Contact person for background checks;
 - c. Phone number;
 - d. Secure or confidential fax number;
 - e. Mailing address;
 - f. Physical address;
 - g. Email address.

2. DDA Central Office staff will request an account number from the BCCU.
3. DDA Central Office staff will email the BCCU account number to the entity with instructions for managing background check authorizations.
4. If changes are needed to an existing account:
 - a. The provider must contact the DDA Background Check Program Manager directly with their account number and requested changes.
 - b. Central Office staff will submit change information to the BCCU. Changes are usually effective in 24 hours.

P. Access to Information

BCCU generally returns the results of the background inquiries to the entity within 14 working days, except for FBI inquiries which may take six weeks or longer. Refer to the [BCCU Turnaround Times](#) for updated information.

Background check information must be kept confidential. Only designated and trained staff responsible for processing background checks results may have access to the background information records. Information must be kept in a secure location.

Q. Noncompliance

Failure of providers or contractors to adhere to this policy will constitute a breach of contract.

EXCEPTIONS

Any exception to this policy must be allowable by law and have the prior written approval of the Deputy Assistant Secretary or designee.

SUPERSESSSION

DDA Policy 5.01
Issued June 26, 2018

Approved: /s/ Deborah Roberts
Deputy Assistant Secretary
Developmental Disabilities Administration

Date: July 1, 2019

ATTACHMENT A

Type of Background Check Required

Entity Type	Applicant Type	Background Check Type	Renewal Due
Adult Family Homes, Alternative Living, Assisted Living, Companion Homes, Group Homes, Group Training Homes	New-Hire or Rehire	Fingerprint check	Every 2 years
	Renewal	Washington state name and date of birth unless the applicant has lived out of state during the previous 3 years, then a fingerprint check	
Supported Living, CCSS*, ICF/IID*, SOLA*	New-Hire or Rehire	Fingerprint check	Every 3 years
	Renewal	Washington state name and date of birth unless the applicant has lived out of state during the previous 3 years, then a fingerprint check	
Individual Providers	Initial Contract	Fingerprint check	Every 2 years
	Renewal	Washington state name and date of birth unless the applicant has lived out of state during the previous 3 years, then a fingerprint check	
County staff and DDA-funded county programs and services	New-Hire, Rehire, or Renewal	Washington state name and date of birth unless the applicant has lived out of state during the previous 3 years, then a fingerprint check	Every 3 years

*CCSS: Community Crisis Stabilization Services

*ICF/IID: Intermediate Care Facility for Individuals with Intellectual Disabilities

*SOLA: State-Operated Living Alternatives

For all other types of contracted providers, refer to contract.

ATTACHMENT B

BCCU Account Roles and Responsibilities

Account role	Monitors	Adds and removes users	Submits background checks	Receives and reviews results	Requirements
Oversight Administrator	All accounts and users under inquiry type group	Yes	No	Search and review results for all inquiry type groups assigned	Must be a state employee or HQ staff
Oversight Reviewer User	All accounts and users under inquiry type group	No	No	Search and review results for all inquiry type groups assigned	Must be a state employee or HQ staff
Primary Account Administrator	All users assigned to BCCU account #	Yes	Yes	Yes	Primary point of contact in BCS for identified BCCU accounts
Account Administrator	All users assigned to BCCU account number	Yes	Yes	Yes	Can act as backup to the Primary Account Administrator
Entity User	BCCU account number they are assigned to	No	Yes	Yes	DSHS or entity employee
Entity Submitter	BCCU account number they are assigned to	No	Yes	No	DSHS or entity employee

ATTACHMENT C

DDA Inquiry Type Groups

Inquiry Type Group Name	Inquiry Type Group Abbreviation
Certified Community Residential Services Programs	CCRSP
County Staff, County Programs & Services	County staff
Individual Providers	DDA-IP
Licensed Group Homes	LGH
Other Provider	Other Provider
Other Provider - External	Other Provider - Ext
Provider	PROVIDER
State Employee	STATE EMPLOYEE
State Employee - RHC	State Emp-RHC
State Employee SOLA	STATE EMPLOYEE SOLA