



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: BACKGROUND AUTHORIZATIONS POLICY 5.01

Authority: [RCW 43.20A.710](#) *Investigation of Conviction Records or Pending Charges*
[RCW 74.15.020](#) *Definitions*
[RCW 74.15.030](#) *Powers and Duties of the Secretary*
[RCW 74.39A.056](#) *Criminal History Checks on Long-term Care Workers*
[RCW 43.43.830 - 845](#) *Background Checks*
[Chapter 9.96A RCW](#) *Restoration of Employment Rights*
[Chapter 388-06 WAC](#) *Background Checks*
[Chapter 388-101 WAC](#) *Certified community residential services and supports*
[WAC 162-12-140](#) *Pre-employment Inquiries*

Reference: DSHS Administrative Policy 9.04, *Background Checks on Care Providers*

BACKGROUND

[RCW 43.43.830](#) 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, suitability, and competence of persons or agencies who are authorized to care for individuals with developmental disabilities, prior to authorizing care. It must, at a minimum, investigate the conviction record, pending charges, and dependency record. Also, for persons who have resided outside the state within the last three (3) years, DSHS must submit the applicant's fingerprints for a national criminal history record check through the Federal Bureau of Investigation (FBI).

[RCW 74.39A.056](#) requires most long-term care workers, including individual providers (IPs), to have fingerprint-based checks prior to initial hire or initial contract. Community residential service providers (see Definitions) are subject to name/date of birth (DOB) checks only, unless they have resided in Washington State for less than three (3) continuous years as described above.

PURPOSE

This policy describes procedures for background check authorizations conducted by DSHS for the Division of Developmental Disabilities (DDD).

SCOPE

This policy applies to DDD staff who initiate or manage any provider contracts that may involve unsupervised access to individuals with developmental disabilities.

DDD direct hires, volunteers, and student interns are not covered by this policy.

For all persons under final consideration for initial appointment to a covered position, all employees currently serving in covered positions, those moving into or between covered positions, and any similarly situated volunteers and student interns, DSHS staff may refer to the Background Check Central Unit webpage on the DSHS Internet website at <http://dshs.wa.gov/BCCU/index.shtml>.

DEFINITIONS

Terms used in this policy are listed following the Procedures section.

POLICY

- A. Individuals who may have unsupervised access to persons with developmental disabilities must complete a DSHS background check.
- B. Long-term care workers, except community residential service providers, contracted after January 7, 2012, must have fingerprint-based background checks.
- C. All individuals who have resided less than three (3) continuous years in Washington State must have fingerprint-based background checks.
- D. Background checks must be renewed at least every three (3) years. Renewals only require a Washington State name/DOB check unless the individual has resided in Washington State for less than three (3) continuous years.

PROCEDURES**A. Provider Requirements**

- 1. Providers who may have unsupervised access to DDD clients must complete a [DSHS 09-653, Background Authorization](#) form.

2. Requestors must check the applicant's photo identification (i.e., driver's license, government identification card (ID), tribal ID, or passport) to verify the applicant's identity and that the name, date of birth, and signature match the information provided on the [DSHS 09-653, Background Authorization](#) form.
3. Initial background checks are completed before hiring or contracting with a provider.
4. Individual providers (IPs) must have fingerprint-based checks prior to initial hire or initial contract.
5. Individual provider contracts may be finalized and services authorized when fingerprint-based FBI results are pending only when the client/legal representative has authorized this by signing the *Provisional Hire Acknowledgement* form (see Attachment A).
6. Contracted providers must submit a [DSHS 09-653, Background Authorization](#) form at least every three (3) years after the initial inquiry has been completed.

B. **Fingerprint-based FBI Check Procedures**

1. Complete the [DSHS 09-653, Background Authorization](#) form.
2. Place an ordinary envelope label on Section 1, Part 3 of the completed DSHS 09-653. Print the statement: **"Fingerprint Check Required"** on the label. Note: It is acceptable for the label to cover the *"Economic Services Administration"* section of the form.
3. DDD contracts staff working on DDD contracts may generate an OCA number online via the [DSHS OCA Generator](#) or fax the completed background authorization form to receive the OCA number.
4. Fax or mail the completed [DSHS 09-653, Background Authorization](#) form to the BCCU. Include OCA number if OCA generator was used. Note: Contracted providers running checks on applicants/employees must fax or mail form to the BCCU as described in number '9' below.
5. The requestor will receive a Name/DOB Initial State Results letter with the OCA/BCCU tracking number from the BCCU in approximately one working day. The OCA number specific to this check will be required for scheduling.
6. Complete [DSHS 27-059, Fingerprint Appointment](#) form with the applicant for scheduling purposes.

7. Either the requestor or the applicant schedules the electronic fingerprinting appointment at the nearest *electronic fingerprinting* location:
 - a. Electronically: Go to ibtfingerprint.com (available 24/7); or
 - b. Call **1-888-771-5097** (Monday-Friday 8am – 5pm).
8. The applicant attends fingerprinting appointment at DSHS contracted fingerprint company location with a copy of the completed [Fingerprint Appointment](#) form and required picture identification (ID).
9. The electronic fingerprinting company provides the applicant with an appointment confirmation receipt and sends electronic prints to the BCCU for completion of the federal check.

C. Washington State Name/DOB Checks

Requestors must use the [On-line ADSA Background Check Application](#) or submit a copy of the form by fax or mail to the DSHS BCCU as follows:

1. By fax: (results will be faxed to the requestor's secure fax location on file with BCCU):

Attention: Background Check Central Unit
Fax (360) 902-0292
2. By mail: (results will be returned by fax if the requestor has a secure fax location on file with BCCU or by mail to the requestor's official mailing address on file with BCCU):

Background Check Central Unit
P.O. Box 45025
Olympia, Washington 98504-5025

D. Alternative Fingerprinting Resources

1. Prior approval from the DDD Background Check Program Manager is required if fingerprinting resources other than the DSHS electronic fingerprinting contracted vendor are to be used. Approval will be made according to each individual case. Circumstances that may justify approval include, but are not limited to, the following:
 - a. Poor road conditions;
 - b. Health issues; or

- c. A commute of greater than 50 miles.
2. Alternative fingerprinting resources are limited to a local law enforcement agency, a qualified person trained by Washington State Patrol (WSP) to roll fingerprints, or another agency contracted with DSHS to provide fingerprint services.
3. When using alternative fingerprinting resources, proceed as follows:
 - a. The requestor provides the applicant with an original FBI fingerprint card pre-printed with the authorizing law and ORI number, a pre-addressed stamped envelope, and a letter explaining that the rolling agency should return the fingerprint card to the requestor in the pre-addressed stamped envelope.
 - b. The requestor provides instructions to the applicant on getting fingerprints rolled.
 - c. The applicant provides the fingerprint card packet to the rolling agency and has fingerprints rolled.
 - d. The applicant pays the fingerprint rolling fee, if applicable.
 - e. The rolling agency mails the completed fingerprint card to the requestor in the pre-addressed stamped envelope provided by the requestor.
 - f. The requestor mails the completed card to BCCU with the background authorization form and the applicant's identification documentation to BCCU.

E. Provisional Hires

1. DDD may not provisionally hire an individual that contracts directly with the department without prior written approval from the client/legal representative (See Attachment A).
2. Contractors must complete a state background check through DSHS prior to hiring a person who may have unsupervised access to persons with developmental disabilities.
3. Contractors providing services may provisionally hire a person for 120 days as allowed under the law when:

- a. The person is required to have a fingerprint check for a national criminal history check through the FBI; and
 - b. The applicant or service provider is not disqualified based on the initial result of the state background check from DSHS; and
 - c. A fingerprint-based background check is pending.
4. Contractors making a provisional hire must send the FBI fingerprint card to the BCCU or ensure electronic prints have been taken prior to the provisional hire.

F. **Background Check Results Letters**

1. BCCU will send one of the following results letters in response to the background check:
 - a. ***“No record of criminal convictions, pending charges or negative actions.”*** This letter indicates that no disqualifying crimes or negative actions were found during the background check. However, the requestor remains responsible to determine the applicant’s suitability for employment; or
 - b. ***“A. A criminal conviction, pending criminal charge, (or) B. Negative action.”*** This letter indicates that the background check found the applicant has a record of criminal conviction(s) or other negative actions that do not automatically disqualify the individual. However, the requestor must review the character, competence, and suitability of the applicant to determine whether or not it would be appropriate to hire the applicant. (or)
 - c. ***“A. A criminal conviction or pending charge that is on the Department Secretary’s List of Crimes and Negative Actions; (or) B. A negative action that is on the Department Secretary’s List of Crimes and Negative Actions; (or) C. Has an unknown conviction, charge or other action that requires more information from the applicant.”*** This letter indicates that the applicant has a record of criminal conviction(s) or other negative actions that may disqualify the applicant from employment. The requestor must compare the specific conviction(s) or negative actions with the applicable list from the Secretary and ensure that applicants with disqualifying records are not hired.

G. **Disqualifications**

1. DSHS must automatically disqualify an applicant if their background check reveals crimes and negative actions on the [Secretary’s List of Crimes and](#)

[Negative Actions for DDD](#). Some crimes and negative actions are permanently disqualifying; others may require at least five (5) or more years to have passed to be considered for a covered position.

2. Applicants may request a review of the results by the DDD Background Check Program Manager if the results indicate a DOH or DSHS finding unrelated to abuse or neglect.

H. **Character, Competency, and Suitability Review**

1. When the results letter indicates that an applicant's character, competence, and suitability (CCS) must be reviewed, the following information should be considered ([WAC 388-06-0190](#)):
 - a. The amount of time that has passed since the conviction;
 - b. The seriousness of the crime that led to the conviction;
 - 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. Applicant's behavior since the conviction; and
 - g. The vulnerability of those that would be under the applicant's care.
2. The CCS review must also be conducted when an applicant has pending charges and negative actions that are not automatically disqualifying.
3. Requestors must report to BCCU any new convictions, pending charges, and negative actions discovered during the CCS review.

I. **Applicant Self-Disclosure**

The [DSHS 09-653, Background Authorization](#) form requires the applicant to disclose their criminal background, licensing, and abuse and neglect information under penalty of perjury.

1. If an applicant self-discloses a disqualifying crime, the employment process may end before verifying the disclosure.

2. The completed [DSHS 09-653, Background Authorization](#) form must be sent to BCCU even if the employment process stops.

J. Correcting Flawed Background Check Information

1. If an applicant reports that the conviction record is incorrect, direct the applicant to contact the WSP to get the conviction record corrected and to contact BCCU to report the error.
2. If an applicant reports that the negative actions on his/her 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 requestor must report to BCCU when the information returned by BCCU does not match the identifying information provided to BCCU.

K. Obtaining or Changing BCCU Account Information

Contracted providers that process background checks must obtain a BCCU account. The process for obtaining a new BCCU account is:

1. DDD regional contracts staff will provide the DDD Background Check Program Manager with the contracted provider's name and his/her:
 - a. Phone number;
 - b. Secure fax number;
 - c. Mail address (city/state/zip/mailstop); and
 - d. Site address (city/state/zip).
2. DDD Central Office staff will request an account number from BCCU.
3. DDD Central Office staff will email the BCCU account number to the DDD regional contracts manager and the new agency with general directions on how to manage background check authorizations.
4. If changes are needed to an existing account:
 - a. The contractor must contact the Background Check Program Manager directly with his/her account number and requested changes.
 - b. Central Office staff will submit change information to the BCCU. Changes are usually effective in 24 hours.

L. Access to Information

1. BCCU generally provides the results of the background inquiries to the requestor within fourteen (14) working days, except for FBI inquiries which may take six (6) weeks or longer.
2. Only information related to the disqualifying crime will be sent to the requestor.
3. Only designated and trained staff responsible for the screening, faxing, mailing, and receipt of background checks results should have access to the background information records. Information must be kept in a secure location. Applicants have the right to expect all background check information will be kept confidential.

M. Noncompliance

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

DEFINITIONS

For the purposes of this policy, the following definitions apply:

Applicant means an individual who has signed the DSHS background check authorization form under penalty of perjury. The individual is also considered the subject of the background check.

Background Check means a review of an individual's criminal history and a review of any civil adjudication proceedings.

Civil Adjudication Proceeding is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter [13.34](#), [26.44](#), or [74.34](#) RCW, or rules adopted under chapters [18.51](#) and [74.42](#) RCW.

Background Check Central Unit (BCCU) means the office within DSHS responsible to search, process, and report background information for authorized service providers and DSHS administrations.

Character, Competence, and Suitability (CCS) means the screening and assessment of the potential personal and professional capability of an employee or applicant to work with or serve vulnerable adults, juveniles, or children based on a review of crimes and negative actions.

Community Residential Service Providers include all DDD supported living providers with the exception of supported living providers who are also licensed as an assisted living facility or adult family home provider. Community residential services providers also include DDD companion homes, DDD alternative living, and licensed staffed residential homes for children.

Contractor means a provider who carries a contract with DSHS to provide services to vulnerable adults or children and who may hire employees.

Covered Position means a position that requires a background check as a condition of employment. All DDD positions are covered positions.

Disciplinary Board Final Decision means a finding issued by the Department of Health (DOH) for violation of the Uniform Disciplinary Act. The Act governs health care providers and individuals licensed, certified, or registered by DOH ([Chapter 18.130 RCW](#)).

Fingerprint Check means a fingerprint check is considered a positive identification check. The fingerprints of an applicant are reviewed to match fingerprints taken at the time of an arrest or conviction of a crime.

Long-Term Care Workers means all persons who are long-term care workers for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title [71 RCW](#), all direct care workers in state-licensed assisted living facilities and adult family homes, respite care providers, community residential service providers, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

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

- 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 license, certification, and/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.

OCA Number means the Originating Case Agency number assigned by the BCCU to track individual background checks.

ORI Number means a number assigned by the FBI and used to identify the origination information for a request for a fingerprint based check.

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 charge for an offense or crime that has not been addressed by the court. A pending charge in Washington will show on a RAP sheet for only twelve (12) months after the charge was filed if the court has not made a decision.

Provider means any individual or entity that provides services to DSHS.

Requester means the requester is the individual or entity who submits the background authorization form to BCCU.

Roll means printing or scanning the applicant's fingerprints on the WSP/FBI identification card.

Secretary's List of Crimes and Negative Actions means the DSHS/DDD list of potentially disqualifying crimes and negative actions adopted by the DSHS Secretary as the first level of the determination of an applicant's or employee's character, competence and suitability to have access to vulnerable people. To view the list, go to:
<http://www.dshs.wa.gov/bccu/bccucrimeslist.shtml>

Secure Fax Location means (as defined by the WSP) a location accessible only to designated employees responsible to handle and process authorization forms and information related to background checks.

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 adults to which the applicant has access during the course of his or her 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 his or her employment or involvement with the business or organization.

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

EXCEPTIONS

Any exception to this policy must be allowable by law and have the prior written approval of the Division Director.

SUPERSESSION

DDD Policy 5.01
Issued June 1, 2009

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: October 1, 2012

Attachment A - *Provisional Hire Acknowledgement* form

PROVISIONAL HIRE ACKNOWLEDGEMENT FORM

Review Date:

Individual Provider Name:

Inquiry ID/OCA:

DSHS has reviewed and shared with you the initial criminal background check result from the DSHS Background Check Central Unit (BCCU). This initial review is based on a name and date of birth check through the Washington State Patrol (WSP), a check of the Washington Court's database, and WA State registries.

- Individual Provider [redacted] is not disqualified based on the initial Washington State name and date of birth background check; and
- A fingerprint-based background check is pending.

When a national criminal record check through the FBI is required, the law allows a person to be employed as an independent contractor on a conditional basis pending completion of the national check (RCW 43.43.832(7)).

As the prospective employer of this individual, please determine whether you would like to employ them now or wait for the final fingerprint based FBI result to be completed.

Please check one:

- I would like to provisionally employ [redacted] understanding that the fingerprint-based portion of the background check is pending; or
- I choose to wait until the final result of the WSP and FBI fingerprint check is completed and reviewed.

Client/Legal Representative Signature: _____

Print Name: _____