

Administrative Policy No. 18.63

Subject: Employee Background Check Requirements

Information Contact: Human Resources Division

Authorizing Source: [RCW 43.43.830](#) through [RCW 43.43.842](#)
[RCW 9.96A.060](#)
[RCW 72.05.440](#)
[RCW 71.09.300](#)
[RCW 43.20A.710](#)
[Chapter 10.97 RCW](#)
[Chapter 388-06 WAC](#)
[Chapter 388-101 WAC](#)
[5 CFR, Part 731.202](#)
Fed regulation re: IRS/PUB 1075

Effective Date: May 19, 2011ⁱHousekeeping 10/5/11; ⁱⁱHousekeeping 8/29/12
ⁱⁱⁱHousekeeping 10/2018 ^{iv}Housekeeping 12/20/19 ^vHousekeeping 8/13/2021

Revised: New

Approved By: original signed by Glen G. Christopherson
Senior Director, DSHS Human Resources

Purpose

This policy establishes standards for the Department of Social and Health Services to conduct background checks for department employees, applicants for employment, volunteers and student interns.

Scope

This policy applies to all department-covered positions, appointing authorities, and hiring authorities.

Additional Guidance and Resources

- [Human Resources Division Guidelines for Conducting Employee Background Checks –](#)

¹ Added missing hyperlink in 1st bullet above.

[Implementing Administrative Policy 18.63](#)

- [Background Check Authorization Form DSHS Form 09-653](#)
- [Character, Competency and Suitability Assessment 03-506](#)
- [Secretary's List of Crimes and Negative Actions for Access to Vulnerable People](#)
- [Background Check Central Unit Website](#)
- [Retention Schedule for Series 106 Background Check Central Unit](#)

Definitions

For purposes of Administrative Policy 18.63, the following definitions apply. Additional definitions that apply to this policy are in the department Guidelines for conducting employee background checks.

Applicant means any person who has applied for work in a department-covered position, including current employees moving for any reason or moving to a position because of transfer, promotion, demotion, elevation, layoff, or reversion. Applicant also means volunteers, students and interns serving or working in a similarly situated position or any person who must meet state and federal background check requirements to, conduct research, contract, or work in a department-covered position.

Appointing authority means an individual or designee lawfully authorized to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

Background Check Central Unit means the program responsible for compiling and distributing background check information for the department of social and health services.

Background information means information provided by the applicant and the result of the background search, enclosed letters, affidavits, identification information, court documents, and other documentation relating to a background search.

Character, competence, and suitability (CCS) means the documented assessment of the capability of an employee or applicant to work or serve in a department-covered position after review of the employee or applicant's criminal convictions, pending charges, and civil adjudication proceedings

Child or children mean any person under the age of eighteen.

Department means the department of social and health services.

Department-covered position means a position designated to have:

- Unsupervised access to vulnerable adults, juveniles, and children;
- Access to the internal or federal databases where a background check is required by federal statute, regulation or guideline. This includes positions with FTI or HPF; or
- Access to the internal databases in the Background Check Central Unit and the Division of Disability Determination Services.

Division of Disability Determination Services (DDDS) means the program contracted to perform medical determinations for the Social Security Administration in accordance with the Social Security Administration (SSA) regulations and requirements.

Federal Tax Information (FTI) means federal tax returns and return information (and information derived from it) that is in the agency's possession or control which is covered by the confidentiality protections of the IRC and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as Sensitive but Unclassified information and may contain personally identifiable information (PII). FTI includes return or return information received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration (SSA), Federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS), or Centers for Medicare and Medicaid Services (CMS), or another entity acting on behalf of the IRS pursuant to an IRC 6103(p)(2)(B) Agreement.

Juvenile means a person under the age of 21 under the Juvenile Rehabilitation Administration's (JRA) jurisdiction; or under the department of corrections jurisdiction while placed in a JRA facility.

Negative actions mean an official action considered under individual program law and rule, which may lead to denial of unsupervised access to vulnerable adults, juveniles, and children. A negative action is an official action taken against an individual and may include:

- A finding issued by an agency an Administrative Law Judge, or a court of law that an individual abused, neglected, exploited, or abandoned a vulnerable adult, juvenile or child.
- 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 an agency negative action.
- Revocation, suspension, denial or restriction placed on a professional license.
- Department of Health disciplining authority finding.
- A pending charge or an action that is "unknown"

NOTE: A finding by an agency is not a negative action if the individual did not have the opportunity to request an administrative hearing to contest the finding.

Pending charge or pending action means a charge or action awaiting a decision by a court or a civil adjudication proceeding. The term *pending charge* also includes specific types of court action where the defendant has agreed to certain conditions. Examples include a deferred prosecution or a stipulated order of continuance on an agreed condition. The department considers these types of cases on an individual case-by-case basis.

Permanent employee means an individual who has successfully completed a Washington General Service probationary or trial services period or Washington Management Service review period after appointment to a permanent position.

Position with access to sensitive information means the duties of the job allow access to internal

secure databases housed in the Background Check Central Unit and the Division of Disability Determination Service.

Re-check means a subsequent background check conducted for the same person in the same position as the initial background check.

Secretary's list of crimes (Secretary's List) means the list designated by the Secretary of the department setting out the criteria applied to applicants and employees who work or are applying to work in a department-covered position with unsupervised access to vulnerable people. *Secretary's List of Crimes and Negative Actions for Positions with Unsupervised Access to Vulnerable People*. See Appendix A

NOTE: A Secretary's list is not required for positions with access to sensitive information to determine suitability because federal and state laws require individual review of each crime and conviction. Determination of suitability of an applicant to access sensitive information is unique to the duties of the position, the seriousness of the crime, and the time that has passed since the conviction.

Self-Disclosure means any background information provided directly by an applicant or employee including arrests, charges, convictions, negative actions, or court imposed sanctions or conditions. Self-disclosure may occur prior to employment and at any time during employment

Sensitive information means personally identifiable information kept in a secure federal or state database. The information can be changed, deleted, or misused by employees with access to the database. Currently, positions with access to sensitive information are located in the Background Check Central Unit and Division of Disability Determination Services.

State Operated Living Alternatives (SOLA) means a community based supported living program operated by the Division of Developmental Disabilities with state employees providing instruction and support to clients residing in generic housing owned, leased or sub-leased by the client.

Unsupervised access to vulnerable people means working with or being in the presence of vulnerable adults, juveniles, or children out of sight of:

- An employee who has passed a background check
- A parent, relative, or guardian of the vulnerable adult, juvenile, or child

Vulnerable adult means a person who is a client of the department, and has at least one of the following characteristics:

- Is sixty years of age or older with a functional, mental, or physical inability to care for himself or herself.
- Has been found legally incapacitated under [Chapter 11.88 RCW](#).
- Has a developmental disability as defined under [RCW 71A.10.020](#) .
- Is admitted to any facility operated by the department.

- Is receiving services through a department contracted, authorized, certified, or licensed service provider, or individual provider, including those certified under [Chapter 70.96A RCW](#).
- Is receiving services through home health, hospice, or home care agencies licensed under [Chapter 70.127 RCW](#).
- Meets the definition of a vulnerable adult as defined in [Chapter 74.34 RCW](#).

Policy Requirements

This policy sets department requirements for conducting background checks for applicants and employees and requires department personnel to follow the detailed procedures outlined in the Department Guidelines for Conducting Employee Background Checks.

Nothing in this policy limits the department from accessing and using additional sources of background information.

A. Background Check Policy, Rule and Statute

When developing, revising, or amending internal division or administration background check policy, rules, procedures or legislation all administrations must notify the Human Resources Division representative to the Background Check Advisory Group and the manager of Background Check Central Unit (BCCU) to ensure and promote department-wide consistency in background check process and policy.

B. Administration Access to Background Check Central Unit Services

Appointing authorities must:

1. Determine which of their offices will receive approval to request and receive background information through the Background Check Central Unit as described in [Guideline 5](#).
2. Notify the Background Check Central Unit of any change in the status of an office granted approval to request and receive background information as described in [Guideline 5](#).

C. Overall Expectations of Appointing Authorities

Appointing authorities must:

1. Notify Human Resources, employees, and applicants about background check requirements of department-covered positions as described in [Guideline 13](#).
2. Conduct background checks and consider background information as required by State and federal law, and regulation and as described in [Guideline 4](#) including:
 - a. Conducting a background check when the employee is applying for a department-covered position in a different class series or different administration.

- b. Conducting additional background checks at specified intervals, including employees of State Operated Living Alternatives (SOLA).
3. Conduct a background check, review the result, and complete a [character, competence and suitability assessment](#) as described in [Guideline 10](#) prior to allowing unsupervised access or determining the applicant/employee is suitable to hold a department-covered position including:
 - a. Department employees
 - b. Applicants for employment
 - c. Volunteers and student interns
4. Deny a permanent employee appointment or continued employment in a department-covered position as described in [Guideline 20](#) if the employee's background is determined unsuitable for a department-covered position.
5. Deny appointment or continued employment in a department-covered position as described in [Guideline 28](#) if an applicant fails to submit a signed background authorization form.
6. Ensure that hiring authorities and Department staff do not revise or otherwise alter a completed and signed background check authorization form as described in [Guideline 6](#) in any way for any reason.
7. Ensure that department staff always receive an applicant-signed and completed background authorization form as described in [Guideline 6](#) prior to submitting a background request to the Background Check Central Unit.
8. Ensure that hiring authorities verify an applicant's identity and signature as described in [Guideline 6](#) prior to submitting a background request to the Background Check Central Unit.
9. Ensure that the administration, division, and unit(s) review and communicate the expectations and procedures in this policy with staff at all levels of the organization.

D. Documentation and Tracking of Department-covered Positions

Appointing authorities must document and track department covered positions as described in [Guideline 13](#) and:

1. Inform the Human Resources Division of all positions identified as department-covered positions.
2. Keep records of the position numbers for department-covered positions for which the appointing authority is responsible.
3. Document the completion of a background check for each applicant identified as a finalist

for a department-covered position.

4. Document the outcome and the appointing/hiring authority decision of any re-check conducted as allowed under state or federal law or regulation.

E. Character, Competence and Suitability Review

Appointing authorities must assess and document an applicant/employee's character, competence and suitability (CCS) to work or serve in a department-covered position when the applicant/employee's background information is not automatically disqualifying. See [Guideline 9](#), [Guideline 10](#), [Guideline 11](#) and the CCS Assessment form [03-506](#).

F. Exemptions and Waivers

Unless state, federal law or regulation provide a specific exception to the law, waivers must NOT be granted to an employee or applicant whose background check result prevents them from working in a department-covered position. [Guideline 21](#).

G. Conditional Hire

To appoint an applicant on a conditional basis pending the result of the background check the appointing authority must ensure the following:

1. State, federal law or rule permits conditional hire for unsupervised access.
2. The department-covered position is with a department residential care facility.
3. The appointing/hiring authority officially approves the conditional hire for the specific position.
4. Within 24 hours of conditional hire, the appointing/hiring authority transmits the applicant/employee's signed background authorization form to BCCU.

H. Permanent Employee Denied Department-covered Position

1. Permanent employees denied a department-covered position may be subject to the actions described in [WAC 388-06-0630](#) and [Guideline 20](#).
2. Appointing authorities must determine the appropriate action available to the employee described in [WAC 388-06-0630](#) and [Guideline 20](#).

I. Appointing Authority Decision and Review by Secretary

1. If requested by a permanent employee, the Secretary or designee must conduct a review of the decision to deny appointment or continued employment as described in [Guideline 17](#).

2. Under the conditions specified in [Guideline 19](#), a permanent employee may present specific additional information to the Secretary or designee.
3. If the review by the Secretary or designee results in the permanent employee retaining their current department-covered position, the employee may remain in that position only.
4. In the future if the employee applies for a different department-covered position, as with any applicant, the appointing authority must consider the employees' background information.

J. Reporting Changes in Background Information

1. Employees, volunteers and student interns must report to their immediate supervisor any changes in their background information that may prevent continued employment in a department-covered position. See [Guideline 22](#).
2. Employees in a department-covered position are subject to disciplinary action for failing to report changes in their background information within 24 hours of the incident or prior to the start of the next scheduled shift.
3. The appointing/hiring authority must request that the employee, volunteer and student interns complete a department background authorization [Form 09-653](#) and must conduct and document a review. Documentation must include:
 - a. The source of the report.
 - b. The convictions, pending charges, or negative actions reported.
 - c. The result of the background check.
4. The appointing authority must review the reported background information and must:
 - a. Review any new background information using the Secretary's List of Crimes.
 - b. Decide if the conviction, pending charge or negative action appears on the Secretary's List of Crimes.
 - c. Conduct a character competence and suitability assessment and:
 - i. Determine the potential risk of unsupervised access to department clients
 - ii. Determine the seriousness of the convictions, pending charges or negative actions in relationship to the duties of the department-covered position.
 - iii. Deny unsupervised access if the crime, pending charge or negative action appears on the Secretary's List.
5. To ensure the safety of clients and reduce the potential of risk, the appointing authority must accept a report of a change in background check status from any source as described in [Guideline 7](#), and must follow and document the process described in [Guideline 28](#).

K. Fingerprint Checks

If required by State or federal law, or regulation the appointing authority may conduct national

fingerprint-based background checks for department employees and applicants as described in [Guideline 25](#).

L. Prohibited Acts

Appointing authorities must ensure that:

1. All department employees with access to signed background check authorization forms do not intentionally modify, redact, alter, or complete an incomplete background authorization form by any manner, means or way as described in [Guideline 6](#).
2. All department employees processing background check authorization forms must not accept or process any form that is not fully completed and signed as required by the department as described in [Guideline 6](#).
3. Any department employee whose duties include electronic processing of background check authorization forms through the department's electronic database must input information EXACTLY and only as it appears on the completed and signed form as described in [Guideline 6](#).
4. Failure to follow these restrictions may subject an employee to disciplinary action.

M. Confidentiality and Release of Background Information

1. All appointing authorities must maintain the confidentiality and security of background information as described in [Guideline 27](#).
2. All appointing authorities, as described in [Guideline 11](#), must inform the applicant or employee that the applicant/employee may:
 - a. Receive a copy of the background check result.
 - b. Review the result with the appointing authority.
 - c. Correct any incorrect background information by following instructions in the BCCU result letter.
3. All appointing authorities must release background information and completed authorization forms as allowed under federal and state law as described in [Guideline 26](#).

N. Retention

All administrations must retain and store completed background check authorization forms, background check results, character, competence and suitability assessments and all other background information as required in the [Washington Retention Committee Retention Schedule Series 106](#) as described in [Guideline 29](#).

ⁱ Updated hyperlink to direct to new website

ⁱⁱ Added federal tax information, updated definition of covered position, and fixed the link to the forms picker

ⁱⁱⁱ Updated links in additional guidance and resource section, reference numbers and links under guidelines, and the link for form #03-506

^{iv} Fixed links in guidelines

DSHS Official