



**RULE-MAKING ORDER  
PERMANENT RULE ONLY**

**CR-103P (August 2017)  
(Implements RCW 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: September 15, 2017

TIME: 10:13 AM

WSR 17-19-073

**Agency:** Department of Social and Health Services, Financial Services Administration

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** RCW 9.97.020(4)(a) mandates rulemaking by the department regarding the inclusion of certificates of restoration of opportunity (CROP) as part of reports, letters, or other assessments, and the application of a CROP to the state abuse and neglect registries. The rules add language to explain when a CROP will be a part of such assessments and when they are not required, and clarify and update the definitions related to the background check central unit of the department and its processes.

**Citation of rules affected by this order:**

New: WAC 388-06-0800, WAC 388-06-0810  
 Repealed: None  
 Amended: WAC 388-06-0700  
 Suspended: None

**Statutory authority for adoption:** RCW 9.97.020

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 17-15-037 on July 11, 2017 (date).  
 Describe any changes other than editing from proposed to adopted version: WAC 388-06-0700 - Added definition of "data sources" to clarify which sources are used, and where more information may be found.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:  
 Address:  
 Phone:  
 Fax:  
 TTY:  
 Email:  
 Web site:  
 Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>2</u>	Amended	<u>1</u>	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted in the agency's own initiative:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>2</u>	Amended	<u>1</u>	Repealed	___

**Date adopted:** September 12, 2017

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



WAC 388-06-0700 What definitions apply to WAC ((388-06-0710)) 388-06-0700 through ((388-06-0720)) 388-06-0810? The following definitions apply to WAC 388-06-0700 through 388-06-0810:

"Applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor, or other individual who is the subject of the background check and who will work in a position that:

(1) May have unsupervised access to vulnerable adults, the developmentally disabled, juveniles, or children; or

(2) Is designated by the department as having access to sensitive information.

"Authorized entity" means a department ((of social and health services)), administration, division, program, unit, service provider, licensee, contractor, or other public or private ((agency)) entity that has permission from the department to ((conduct)) submit and receive background checks through ((the background check central unit)) BCCU.

~~(( "Background check applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor or other individual who is the subject of the background check and who will work in a position that:~~

~~(1) May have unsupervised access to vulnerable adults, juveniles or children as described in WAC 388-06-0610; or~~

~~(2) Is designated by the department as a sensitive position.))~~

"Background check central unit" or "BCCU" is the program responsible for conducting background checks for the department ((of social and health services)).

(1) ((The background check central unit)) BCCU is responsible for:

(a) Compiling background check information from external and internal data sources; ((and))

(b) Determining whether an applicant's background check information matches to the appropriate department list of disqualifying crimes and negative actions; and

(c) Providing information to the authorized entity who requested the background check.

(2) ((The background check central unit)) BCCU does not:

(a) Make the final hiring, contracting, placement, or licensing decision for the department or authorized entity; ((or))

(b) Determine what program, service provider, licensee, contractor, or other public or private agency qualifies as an authorized entity; or

(c) Determine what crimes and negative actions are disqualifying under the respective department lists.

"Background check result" means a written notification that provides information on the results of the background check process conducted for an applicant. The following are all background check results:

(1) "Disqualify result" means that BCCU has determined that the applicant's background check information has one or more items requiring automatic disqualification.

(2) "No record result" means that BCCU has determined that no background information has been reported requiring automatic disqualification or review.

(3) "Review required result" means that BCCU has determined that the applicant has one or more items of background check information, none of which require automatic disqualification.

"Certificate of restoration of opportunity" or "CROP" means a certificate obtained under chapter 9.97 RCW.

"Data sources" may include state and federal law enforcement records, state court records, agency databases, or other sources depending on the type of check conducted. More detailed information may be available on the BCCU page of the department's website or by calling the department.

"Department" means the department of social and health services.

#### NEW SECTION

**WAC 388-06-0800 When must BCCU include a statement about a certificate of restoration of opportunity?** (1) Except as provided for in subsections (2) through (4) of this section, BCCU must include a statement about any existing CROP in background check results for all applicants that the department is authorized to disqualify for:

- (a) A license;
- (b) A certificate of authority;
- (c) Qualification to engage in the practice of a profession or business; or
- (d) Admission to an examination to qualify for such a license or certificate.

(2) BCCU is not required to include a statement about any existing CROP for an applicant who is exempt under chapter 9.97 RCW.

(3) BCCU is not required to include a statement about any existing CROP when BCCU issues any interim communications, including when:

- (a) Requesting additional information;
- (b) Notifying about an error;
- (c) Rejecting a form;
- (d) Requesting a thumbprint; or
- (e) Any other communication that does not assess the final results of a processed background check.

(4) BCCU is not required to include a statement about any existing CROP in any no record result.

#### NEW SECTION

**WAC 388-06-0810 Does a certificate of restoration of opportunity apply to any state abuse and neglect registry?** A CROP does not apply to any state abuse and neglect registry. No finding of abuse, neglect, or misappropriation of property may be removed from such registry based solely on a CROP.