

CHAPTER 48A
BACKGROUND CHECKS

Authority

N.J.S.A. 30:6D-63 et seq.

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APPENDIX A

SUBCHAPTER 1. GENERAL PROVISIONS

10:48A-1.1 Purpose

The purpose of this subchapter is to establish guidelines for obtaining criminal history background checks of employees of agencies under contract with the Division of Developmental Disabilities.

10:48A-1.2 Scope

Background checks shall be conducted for those employees of agencies under contract with the Division, working in such contracted programs, who have direct contact with the persons served by the agency. Such employees include, but are not limited to, consultants, interns and seasonal employees.

10:48A-1.3 Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

“Community agency” means a public or private agency under contract with the Department to provide services to Department individuals who have developmental disabilities.

“Community agency board” means the board of directors of a community agency.

“Community agency employee” means any individual, age 18 and older, who is employed by a public or private agency under contract with the Department to provide services to Department individuals who have developmental disabilities, and includes all personnel who may come into direct contact with individuals who have developmental disabilities.

“Community agency head” means the person responsible for the overall operation of the agency under contract with the Department.

“DHS Coordinator” means the staff member in the Department of Human Services Central Fingerprint Unit (CFU) who advises the agency of the results of the criminal history background checks.

“Division” means the Division of Developmental Disabilities.

SUBCHAPTER 2. ADMINISTRATION

10:48A-2.1 General standards

(a) N.J.S.A. 30:6D-63 to 72 requires that the Department shall not contract with any community agency for the provision of services unless it has first been determined that no criminal history record information exists on file in the Federal Bureau of Investigation Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify the community agency head or the community agency employee from such employment.

(b) Fingerprints shall be taken electronically through a “live scan” process. The agency staff shall be responsible to call a toll free number to schedule an appointment to have fingerprints taken. The State Bureau of Identification will check its own records and forward an inquiry to the Federal Bureau of Investigation.

(c) It shall be the responsibility of the community agency head to assure compliance with this chapter.

(d) If the criminal history record indicates a conviction for certain criminal or disorderly persons offenses, the employee shall be terminated from employment unless he or she affirmatively demonstrates to the community agency head or the community agency board, if the individual is the community agency head, clear and convincing evidence of his or her rehabilitation.

(e) If a prospective employee refuses to consent to or cooperate in securing a background check, the person shall not be considered for employment.

(f) If a current employee refuses to consent to or cooperate in securing fingerprints for the purpose of a background check, the person shall be immediately removed from his or her position and the person's employment shall be terminated.

(g) A background check shall be conducted at least once every two years.

(h) The community agency head and all employees who may come in contact with persons served by the agency, shall submit their fingerprints upon employment to the Department of Human Services office as directed by the Division.

(i) If the background check of the community agency head reveals a criminal record as identified below, the community agency board shall determine within 15 working days, if the community agency head has been rehabilitated in accordance with N.J.A.C. 10:48-3.4.

(j) The community agency head shall ensure that each employee who may come in contact with persons served by the agency shall be fingerprinted in accordance with the procedures contained in this chapter.

(k) All employees shall sign a written consent to the criminal background check (refer to chapter Appendix A, incorporated herein by reference) prior to the time the fingerprints are taken. This consent shall remain on file in the agency.

(l) Individuals shall be disqualified for employment for any of the following crimes or disorderly persons offenses in New Jersey:

1. Any crime or disorderly person offense involving danger to the person as set forth in N.J.S.A. 2C:11-1 et seq. through 2C:15-1 et seq., including the following:
 - i. Murder;
 - ii. Manslaughter;
 - iii. Death by auto;
 - iv. Simple assault;
 - v. Aggravated assault;
 - vi. Recklessly endangering another person;

- vii. Terroristic threats;
- viii. Kidnapping;
- ix. Interference with custody of children;
- x. Sexual assault;
- xi. Criminal sexual contact;
- xii. Lewdness; or
- xiii. Robbery;

2. Any crime against children or incompetents as set forth in N.J.S.A. 2C:24-1 et seq., including the following:

- i. Endangering the welfare of a child; or
- ii. Endangering the welfare of an incompetent person;

3. A crime or offense involving the manufacture, transportation, sale, possession or habitual use of a controlled dangerous substance as defined in N.J.S.A. 24:21-1 et seq.; or

4. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (l) 1 through 3 above.

SUBCHAPTER 3. PROCEDURES

10:48A-3.1 Fingerprints

(a) The community agency head or employee shall make an appointment within 10 working days of employment to have his or her fingerprints taken through the live scan process with an agent designated by the Department of Human Services.

(b) At the time the fingerprints are taken, the employee is required to:

1. Complete the Community Agency Head and Employee Certification, Permission for Background Check and Release of Information (see Appendix A) which will be witnessed by a representative of the community agency. The community agency shall retain the consent with the employee's personnel information;
2. Obtain a receipt from the representative of the agency taking the fingerprints that they have been taken;
3. Return the receipt to the community agency head or designee; and
4. If the prints are rejected by the State Police or FBI as unclassifiable, make an appointment to be reprinted within 10 days of notification that the prints are rejected;

(c) After the fingerprint results are received: