

**MODEL POLICY
FOR
CRIMINAL HISTORY
BACKGROUND CHECK
OF
COMMUNITY DISPUTE RESOLUTION PROGRAM
EMPLOYEES, VOLUNTEERS, AND INTERNS**

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Background Check for Employees, Volunteers, and Interns

I. Purpose

This policy implements a State Court Administrative Office contractual mandate for background checks to be conducted for certain current and prospective employees, volunteers, and interns of Community Dispute Resolution Program (CDRP) grant recipients and Access and Visitation (AV) contract recipients. This policy also provides factors to consider when hiring someone with a criminal history.

[NAME OF AGENCY] intends to establish basic safeguards to create a safe environment for those individuals who use or provide its services.

Unless as otherwise noted, for purposes of this policy only, the term “employee” refers to employees, volunteers, and interns. The term “volunteer” refers to mediators, intake workers, and others who provide service to the center without remuneration. The term [does/does not] include members of boards of directors and advisory committees.

II. Scope

This policy applies to all current and prospective employees [who work on any activity associated with providing services that involve children] regardless of the source of funding for employee expense reimbursement.

III. Notification to Prospective Employees or Volunteers

Applicants for employment as staff will be notified of the background checks either in writing within the position posting, in a letter confirming an interview, or orally at the time an employment interview is scheduled.

Applicants to serve as volunteers and interns will be notified of the background checks either in writing as a part of a written application, or orally at the time of an interview.

IV. Authorization

A. Authorization Requirement

Current and prospective applicants will be required to provide authorization for the criminal history background checks. The authorization will include a request for the individual's: name, gender, and date of birth.

B. Central Registry Clearance

All current and prospective employees must obtain a clearance from the Department of Human Services Central Registry as a precondition of employment and as a condition of continued employment.

V. Conducting the Background Check

A. ICHAT

[NAME OF AGENCY] will submit all appropriate prospective and current employees to a Michigan criminal history background check through the Michigan State Police's Internet Criminal History Access Tool (ICHAT).

B. Central Registry Clearance

Prospective and current employees will be requested to either:

1. provide a copy of the DHS-1910 CENTRAL REGISTRY CLEARANCE RESPONSE LETTER obtained by the prospective and current employees, or
2. provide identification and authorization necessary for the [NAME OF AGENCY] to directly request a clearance letter from DHS.

VI. Actions Taken on ICHAT and CR Response Records

A. Negative response record (no criminal history found)

[NAME OF AGENCY] relies on this information, and no other consideration of the prospective employee's criminal history will be made.

B. Positive response record (criminal history found)

[NAME OF AGENCY] will allow a prospective or current employee to explain or otherwise refute the positive response record(s).

1. Inform the prospective or current employee

Upon receipt of a positive response record, the agency will inform the prospective or current employee of the positive response record, and that the agency will use the positive response record to make a hiring or continued employment decision.

2. Verify information through other means, as necessary

If the prospective or current employee refutes or explains the positive response record, the agency may, with the prospective or current employee's written permission, conduct independent research to validate the positive response record in conjunction with the prospective or current employee's refutation or explanation.

3. Considering information

[CHOOSE ONE OF THE FOLLOWING TWO PARAGRAPHS]:

[NAME OF AGENCY] has an absolute standard by which a given positive response record will control a specific hiring or employment retention decision. This standard is:

OR:

The agency will make a hiring or employment retention decision after examining a number of factors and giving each the appropriate weight based on all the circumstances. These factors include:

- a. Accuracy of the information provided
Was the prospective employee able to successfully refute or explain the positive response record?
- b. Prior disclosure of information
Did the prospective employee disclose this information, if such an inquiry was made during the application process?
- c. Relation to position being filled
Does the positive response record report information substantially relate to the work that the prospective employee would be hired for?
- d. Length of time since reported offense
Did the offense occur recently? Is there a series of offenses?
- e. Nature of the offense
Was the offense work-related, or did the offense occur at the workplace? Was the offense a felony or misdemeanor? Was the offense a violent crime or non-violent crime? Did the offense involve the breach of fiduciary trust?
- f. Public trust
Would the public's trust in the agency be diminished by hiring this prospective employee?

4. Options

The agency will make a decision regarding the appropriate steps to take following the receipt of the positive response record. Steps may include (but are not limited to) the following options:

- a. Do nothing, if the existing employee was able to show a mistake of fact or otherwise refute the positive response record;
- b. Offer counseling to the employee, if the positive response records were the result of substance abuse;
- c. Issue a verbal warning indicating that repeated arrests or convictions may result in further action;
- d. Issue a written warning indicating that repeated arrests or convictions may result in further action;
- e. Impose disciplinary action, including a reduction in pay, or a forced paid or unpaid leave;
- f. Increase supervision of the existing employee or vendor employee in day-to-day work;
- g. Transfer the existing employee to a position that will provide little to no opportunity for the existing employee to repeat the offense;
- h. Transfer the existing employee to a position within the agency not funded in whole or in part by CDRP or AV;
- i. Suspend the existing employee for a certain period of time (with or without pay); or
- j. Terminate the existing employee.

5. Communicating the Decision

The prospective or current employee will be informed of the impact of the positive response record through the following means:

6. Documenting the decision

If a positive response record is received, but the agency decides to hire the individual, the agency's rationale for the decision will be documented and placed in the employee's personnel file. The documentation will include the following statement:

"The agency received a positive response record for this applicant before hire. The agency reviewed the positive response record, and determined that the positive response record did not indicate that the applicant posed

a significant risk to the safety of the office, staff, clients, or general public. Any additional rationale used includes:

The agency has considered whether to document the impact of a positive response record in a decision not to hire a prospective employee, and whether to share that documentation with the not-hired prospective employee. The agency decided as follows:

VII. Storing and Access to the Response Record

All documents generated through the background checks for prospective and current employees are retained as a part of the employment record for the individual (if hired) or as part of the application materials (if not hired and if the agency maintains such a file). If a background check of agency employees is a requirement of any contract executed between this agency and another contracting agency, the response record shall be made available to the contracting agency for auditing purposes.

VIII. Post-hire Reporting

All employees are required to notify the agency’s executive director if, while employed by the agency, the employee is *charged with* a criminal offense.

All employees are required to notify the agency’s executive director if, while employed by the agency, the employee is *convicted of* a criminal offense (misdemeanor or felony).

IX. Failure or Refusal to Agree to a Background Check

A. Failure or refusal to agree to a background check

Failure or refusal to agree to a background check, to provide authorization for an ICHAT and Central Registry background check, or to provide a DHS 1910 response when requested shall automatically result in the removal of the prospective employee from consideration for employment, volunteerism, or an internship.

B. Subsequent background check requirement

All employees, volunteers, and interns are required to submit to a background check every three years. Failure or refusal to agree to a background check, to provide authorization for an ICHAT and a Central Registry background check, or to provide DHS 1910 response when requested shall automatically result in the suspension of the employee, volunteer, or intern from any activity with the agency until the requested background checks have been completed.