

State of Vermont Agency of Human Services (AHS)

Policy Title: 4.02 Background Checks for Hiring	Revision Date:
Attachments/Related Documents:	Revision Number:
Name/Title of Authorizing Signature: Jenney Samuelson, Interim AHS Secretary	Effective Date: 2/15/22
<input checked="" type="checkbox"/> Trauma Informed Review <input checked="" type="checkbox"/> Equity Review	

Authorizing Signature:	
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POLICY STATEMENT:

This policy establishes foundational guidance for conducting background checks of prospective employees, contractors, subcontractors and volunteers for the Agency of Human Services (AHS or the Agency). This policy underscores the Agency’s commitment to its mission, its need to ensure the security and confidentiality of its stakeholders, its need to mitigate liability risk, and its duty to promote public confidence in the Agency’s integrity.

BACKGROUND:

The Agency of Human Services houses a Central Office and six departments [Disabilities, Aging, and Independent Living (DAIL); Children and Families (DCF); Corrections (DOC); Health (VDH); Mental Health (DMH); and Vermont Health Access (DVHA)], all of which engage in hiring activities. Information derived from the background check process will be used to assess a finalist’s eligibility for the role for which they are being considered. The information will not be used to discriminate regarding race, color, religion/creed, sex/gender, age, sexual orientation, gender identity/expression, national origin, place of birth, genetic information, marital/familial status, disability, military, veteran status, pregnancy status, credit history, or any other protected status.

DEFINITIONS:

Appointing Authority: This is the officer, board, commissioner, person or group of persons authorized by statute or lawfully delegated authority to make appointments.

Hiring Manager: The responsible party for hiring an employee into a position; typically, the supervisor.

Finalist: The candidate (e.g., prospective employee) selected by the decision-maker (e.g., hiring manager) for a relationship with the Agency or specific department (e.g., DCF, DAIL) who has been extended an offer of employment (full-time, part-time, or temporary), (sub)contract, or volunteer work contingent upon completion of a background check with satisfactory results.

Background Check: A check or verification of any or all components of the finalist's histories including employment, education, criminal, sex/violent offenses, license, and tax compliance. The Agency will determine the background check's nature and scope as required for the position or contract. The background check itself may be conducted by the State or by a background check vendor.

Background Check Vendor: A company or individual engaged by the State to conduct background checks. When conducting any part, or all, of a background check, the State will require the vendor to comply with state and federal law.

Employment History Check: Verification of a finalist's entries on their application, resume, or curriculum vitae. This will include employment dates and titles for regular (non-student) employment for a minimum of seven (7) years immediately prior to the finalist's application date. This verification is separate from the employment references check prior to the extension of an employment offer.

Education Check: Verification of a finalist's educational history, including educational history at the college or post-college level, if such educational attainment is a necessary prerequisite for the job for which the finalist is being considered.

Reference Check: Verification of a finalist's suitability for the job through the process of calling three or more references provided by the finalist, in order check the validity of information provided by the finalist.

Criminal History Check: A search for felony or misdemeanor convictions or pleas that have not been sealed/annulled/expunged during a period of time that comports with AHS records retention policy or indefinitely for felony convictions. Criminal pleas or convictions will not automatically render a finalist ineligible for the position for which they applied unless federal or State law would prohibit their employment in the position. In all other circumstances the prospective employee will be afforded an opportunity to explain the information and the circumstances regarding any convictions including postconviction rehabilitation.

Sex/Violent Offender Check: A search of sex and violent offender registries at state and federal level.

License History Check: If the position requires that the finalist possess certain licenses, or if the finalist's application materials list certain licenses, such shall be verified through a background check. This type of check could include, for example, a motor vehicle driver's license or any professional license the position requires.

Adverse Action: Any decision made for employment purposes, such as denial of employment, that adversely affects any current or prospective employee.

Tax Compliance: Per 32 V.S.A. Section 3113 (i), no agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written

declaration under the pains and penalties of perjury that the person is in good standing with respect to all Vermont taxes due as of the date such declaration is made.

SCOPE:

Before allowing a new individual access to confidential information as part of their job duties, the Agency must ensure that the individual completes a background check administered by the Vermont Crime Information Center (VCIC) and, when required, a fingerprint supported criminal history check. The Agency will review the local, State, and national records returned by the background check for any potentially disqualifying information before making a final hiring decision. If the Appointing Authority or designee determines that the record shows disqualifying information, then the offer of employment (full-time, part-time, temporary, or voluntary) shall be revoked. If a prospective employee submits inaccurate or misleading information, then the offer of employment shall be revoked. This background check requirement applies to all new employees (including temporary hires), contractors, subcontractors and volunteers.

GUIDELINES:

PROCEDURE

1. **Recruitment:** All recruitment announcements for employment positions must include notice of any requirement to successfully complete local, state, and national criminal background checks as authorized by state law.
2. **Offer:** At or around the time of any offer of employment, the Agency shall notify the individual of the background check requirement and obtain the individual's written authorization before initiating any background check. The notice shall inform the individual of this policy on background checks and of their right to challenge the accuracy of the record by appealing. Individuals who decline to provide information necessary or fingerprints, if applicable, to carry out the background check shall be considered to have declined the employment offer.
3. **Fingerprinting:** The hiring manager will be responsible for ensuring fingerprinting appointments are scheduled by the finalist as soon as possible after an offer of employment is made. The department will cover the cost of fingerprinting.
4. **Required Documentation:** All individuals subject to fingerprinting must fill out and sign the Identification certificate and the FBI National Record Check Release form. The following items must be brought to the fingerprinting appointment:
 1. Fingerprint authorization certificate
 2. FBI National Record Check Release Form
 3. Valid form of government issued identification (one must have a photo and one must have a current signature).
5. **Receipt of the Record:** VCIC will send the federal, state, and local criminal history records to the Appointing Authority.
6. **Review of the Record, if applicable:** Adverse results of the background check shall be reviewed by the Appointing Authority or designee.
7. **Final Determination, if applicable:** After consideration of the additional information provided by the individual, if any, the Appointing Authority or designee, and the relevant department

management shall make a final, written determination and notify the individual in writing of the final determination. The final determination must take into consideration:

- The nature of the job sought;
- The nature of the offense(s);
- The age of the offense(s);
- The gravity of the offense(s); and,
- Any evidence of rehabilitation including evidence provided by the individual.

8. Revocation of Offer, if applicable: If the individual's criminal history records contain automatically disqualifying information, any offer of employment shall be revoked. If the department's final determination is that the individual's criminal history records contain disqualifying information indicating that the individual is unfit to have access to confidential information, any offer of employment shall be revoked.

SECURITY AND CONFIDENTIALITY

All employment decisions shall be made based upon the official record obtained from the background check. Only the Appointing Authority or designee, department management, and/or personnel of the Department of Human Resources with a legitimate "need to know" will be advised of the records returned from the background check.

All background check records, regardless of content, shall be stored in a secured location and destroyed in accordance with state and federal law and regulations.

All background check records are exempt from public inspection and copying under the Vermont Public Records Act and shall be kept confidential by the Agency and/or State. Background check records shall not be shared with any person within or outside of the Agency of Human Services or the Department of Human Resources, except as necessary and consistent with state and federal law and regulations.

The Agency cannot be held liable for errors in the records received from the background check. If there are errors, it is the individual's responsibility to have the record corrected.

REFERENCES:

APPENDIX:
