



DIVISION OF DEVELOPMENTAL DISABILITIES  
Olympia, Washington

TITLE: BACKGROUND AUTHORIZATIONS POLICY 5.01

Authority:	RCW 43.20A.710  RCW 74.15.020 RCW 74.15.030 RCW 43.43.830-845 Chapter 9.96A RCW Chapter 388-06 WAC Chapter 388-101 WAC  WAC 162-12-140	Investigation of Conviction Records or Pending Charges Definitions Powers and Duties of the Secretary Background Checks Restoration of Employment Rights Background Checks Certified community residential services and supports Pre-employment Inquiries
Reference:	DSHS Administrative Policy 9.04	Background Checks on Care Providers

**BACKGROUND**

RCW 43.43.830 requires DSHS to conduct background checks on persons who may have unsupervised access to individuals with developmental disabilities.

RCW 74.15.030 requires DSHS to consider the character, suitability, and competence of persons or agencies who are authorized to care for individuals with developmental disabilities, prior to authorizing care. It must, at a minimum, investigate the conviction record, pending charges, and dependency record. Also, for persons who have resided outside the state within the last three (3) years, DSHS must submit the applicant’s fingerprints for a national criminal history record check through the Federal Bureau of Investigation (FBI).

**PURPOSE**

This policy describes procedures for background check authorizations conducted by DSHS for the Division of Developmental Disabilities (DDD).

**SCOPE**

This policy applies to DDD staff who initiate or manage any provider contracts that may involve unsupervised access to individuals with developmental disabilities; and

DDD direct hires, volunteers and student interns are not covered by this policy. For all persons under final consideration for initial appointment to a covered position, all employees currently serving in covered positions, those moving into or between covered positions, and any similarly situated volunteers and student interns, DSHS staff may refer to the DSHS [Guidelines for Employment Background Checks](#). Note: this document is available only on the department's intranet website at:

<http://hrd.dshs.wa.gov/Director/Guidelines/Background%20Check%20Guidelines.doc>. For background check information available on the DSHS internet website, go to: <http://www1.dshs.wa.gov/msa/bccu/index.htm>.

**DEFINITIONS**

For the purposes of this policy, the following definitions apply:

**Applicant:** An individual who has signed the DSHS background check authorization form under penalty of perjury. The individual is also considered the subject of the background check.

**Background Check Central Unit (BCCU):** The office within DSHS responsible to search, process, and report background information for authorized service providers and DSHS administrations.

**Character, Competence, and Suitability (CCS):** Means the screening and assessment of the potential personal and professional capability of an employee or applicant to work with or serve vulnerable adults, juveniles or children based on a review of crimes and negative actions.

**Contractor:** A provider who carries a contract with DSHS to provide services to vulnerable adults or children and who may hire employees.

**Covered Position:** A covered position is a term used to identify DSHS positions requiring a background check as a condition of employment. All DDD positions are covered positions.

**Disciplinary Board Final Decision:** A finding issued by the Department of Health (DOH) for violation of the Uniform Disciplinary Act. The Act governs health care providers and individuals licensed, certified or registered by DOH. See Chapter 18.130 RCW.

**Fingerprint Check:** A fingerprint check is considered a positive identification check. The fingerprints of an applicant are reviewed to match fingerprints taken at the time of an arrest or conviction of a crime.

**Negative Action:** Means any action taken against the applicant including but not limited to:

- A decision issued after a due process civil adjudicative proceeding by a state agency or an Administrative Law Judge showing a finding of abuse, neglect, exploitation, or abandonment of a juvenile, a child or vulnerable adult;
- 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 negative action;
- Revocation, suspension, denial or restriction placed on a professional license; and
- Disciplinary board final decisions.

**ORI number:** A number assigned by the FBI and used to identify the origination information for a request for a fingerprint based check.

**Pending Charge:** A charge for an offense or crime that has not been addressed by the court. A pending charge in Washington will show on a RAP sheet for only twelve (12) months after the charge was filed if the court has not made a decision.

**Provider:** Any individual or entity that provides services to DSHS.

**Requester:** The requester is the individual or entity who submits the background authorization form to BCCU.

**Roll:** Printing or scanning the applicant's fingerprints on the Washington State Patrol (WSP)/FBI identification card.

**Secretary's List of Crimes and Negative Actions:** The DSHS/DDD list of potentially disqualifying crimes and negative actions adopted by the DSHS Secretary as the first level of the determination of an applicant's or employee's character, competence and suitability to have access to vulnerable people. To view the list, go to:  
<http://www1.dshs.wa.gov/word/ms/bccu/SecListDDDEmpAllOthers.doc>.

**Secure Fax Location:** As defined by the WSP, means a location accessible only to designated employees responsible to handle and process authorization forms and information related to background checks.

**Self-Disclosure:** Crimes and negative action information provided directly by the applicant.

**Unsupervised access:** Not in the presence of:

- Another employee or volunteer from the same business or organization as the applicant; or
- Any relative or guardian of any of the children or persons with a developmental disability or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization (from RCW 43.43.830(8)).

**Volunteer:** Any person who will have regularly scheduled unsupervised access to persons who are developmentally disabled during the course of his or her employment or involvement with the business or organization.

**Vulnerable Adult:** Adults of any age who lack the functional, mental, or physical ability to care for themselves (RCW 43.43.830(9)).

**POLICY:**

Individuals who may have unsupervised access to persons with developmental disabilities must complete a background check. Additionally, individuals who have resided less than three (3) years in Washington State must be fingerprinted, so that an FBI criminal history records check may be completed. Background checks must be renewed every three (3) years.

**PROCEDURES:**

**A. Provider Requirements**

1. Providers who may have unsupervised access to DDD clients must complete [DSHS form 09-653, Background Authorization](#). **Note:** Parents who are contracted to provide services to their own children are not subject to background checks per RCW 74.15.030. This form may be obtained from DDD Regional Offices and outstations or online at: <http://www1.dshs.wa.gov/msa/bccu/BCCU-forms.htm>.
2. Initial background checks are completed before hiring or contracting with a provider.
3. Contracted providers must submit a background inquiry application every three (3) years after the initial inquiry has been completed.
4. Requestors must check the applicant's photo identification (i.e., driver's license, government identification card, tribal ID, or passport) to verify the applicant's identity, and that the name, date of birth, and signature match the information provided on the Background Authorization form.

5. Applicants who have resided less than three (3) years in Washington State must be fingerprinted by either a local law enforcement agency, a qualified person trained by WSP to roll fingerprints, or an agency contracted with the department to provide fingerprint services.
6. Requestors must retain the original background authorization form in a secure location and submit a copy of the background authorization form to the DSHS Background Check Central Unit (BCCU).
  - By mail (results will be returned by mail to the requestor's official mailing address on file with BCCU):

Background Check Central Unit  
P.O. Box 45025  
Olympia, Washington 98504-5025.
  - By fax (results will be faxed to the requestor's secure fax location on file with BCCU):

Attention: Background Check Central Unit  
Fax (360) 902-0292
7. Additionally, when a fingerprint check is required:
  - a. The requestor provides the applicant with an original FBI fingerprint card, pre-printed with the authorizing law and ORI number, a pre-addressed, stamped envelope, and a letter explaining that the rolling agency should return the fingerprint card to the requestor in the pre-addressed stamped envelope.
  - b. The requestor provides instructions to the applicant on getting fingerprints rolled.
  - c. The applicant provides the fingerprint card packet to the rolling agency and has fingerprints rolled.
  - d. The applicant pays the fingerprint rolling fee, if applicable.
  - e. The rolling agency mails the completed fingerprint card to the requestor in the pre-addressed stamped envelope provided by the requestor.
  - f. The requestor mails the completed card to BCCU with the background authorization form and the applicant's identification documentation to BCCU.

**B. Provisional Hires**

1. DDD may not provisionally hire an individual that contracts directly with the department.
2. Contractors providing services must complete a Washington State Background Authorization prior to hiring an individual who may have unsupervised access to persons with developmental disabilities.
3. Contractors providing services may provisionally hire a person for 120 days, if:
  - a. The person is required to have a fingerprint check for a national criminal history check through the FBI; and
  - b. A Washington State background check has been completed.
4. Contractors making provisional hires must send FBI fingerprint cards to the BCCU prior to the provisional hire.

**C. Background Check Results Letters**

1. BCCU will send one of the following results letters in response to the background check:
  - a. No Record of Convictions and/or Other Negative Actions Against the Applicant

This letter indicates that no disqualifying crimes or negative actions were found during the background check. However, the requestor remains responsible to determine the applicant's suitability for employment.
  - b. A Record of Convictions and/or Other Negative Actions Against the Applicant which requires a Character, Competence and Suitability Review

This letter indicates that the background check found the applicant has a record of criminal conviction(s) or other negative actions that do not automatically disqualify the individual. However, the requestor must review the character, competence, and suitability of the applicant to determine whether or not it would be appropriate to hire the applicant.

- c. Convictions and or Other Negative Actions Against the Applicant are on the Secretary's List of Disqualifying Crimes and Negative Actions

This letter indicates that the applicant has a record of criminal conviction(s) or other negative actions that may disqualify the applicant from employment. The requestor must compare the specific conviction(s) or negative actions with the applicable list from the Secretary and ensure that applicants with disqualifying records are not hired.

#### **D. Disqualifications**

1. DSHS must automatically disqualify an applicant if his/her background check reveals crimes and negative actions on the [Secretary's List of Crimes and Negative Actions for DDD](#). Some crimes and negative actions are permanently disqualifying and others indicate that at least five (5) or more years must have passed to be considered for a covered position.
2. Applicants may request a review of the results by the DDD Background Check Program Manager if the results indicate a DOH or DSHS finding unrelated to abuse or neglect.

#### **E. Character, Competency, and Suitability Review**

1. When the results letter indicates that an applicant's character, competence, and suitability (CCS) must be reviewed, the following information should be considered (WAC 388-06-0190):
  - a. The amount of time that has passed since the conviction;
  - b. The seriousness of the crime that led to the conviction;
  - c. The number and types of other convictions in the applicant's background;
  - d. Applicant's age at the time of conviction;
  - e. Documentation indicating successful completion of all court-ordered programs and restitution;
  - f. Applicant's behavior since the conviction; and
  - g. The vulnerability of those that would be under the applicant's care.
2. The CCS review must also be conducted when an applicant has pending charges and negative actions that are not automatically disqualifying.

3. Requestors must report to BCCU any new convictions, pending charges, and negative actions discovered during the CCS review.

#### **F. Applicant Self-Disclosure**

The Background Authorization form requires the applicant to disclose their criminal background, licensing, and abuse and neglect information under penalty of perjury.

1. If an applicant self-discloses a disqualifying crime, the employment process may end before verifying the disclosure.
2. The Background Authorization form must be sent to BCCU even if the employment process stops.
3. BCCU will not run a background check if the applicant discloses a disqualifying crime on the Background Authorization form.

#### **G. Correcting Flawed Background Check Information**

1. If an applicant reports that the conviction record is incorrect, direct the applicant to contact the WSP to get the conviction record corrected and to contact BCCU to report the error.
2. If an applicant reports that the negative actions on his/her background check are incorrect, direct the applicant to contact the agency that submitted the negative action and to contact BCCU to report the error.
3. The requestor must report to BCCU when the information returned by BCCU does not match the identifying information provided to BCCU.

#### **H. Obtaining or changing BCCU account information:**

Contracted providers that process background checks must obtain a BCCU account. The process for obtaining a new BCCU account is:

1. The DDD Regional Contracts Manager will provide the DDD Headquarters (HQ) Background Check Coordinator with the contracted provider's name and his/her:
  - a. Phone number;
  - b. Secure fax number;
  - c. Mail address (city, state, zip, mailstop); and
  - d. Site address (city, state, zip).



2. DDD HQ will request an account number from BCCU.
3. DDD HQ will email the BCCU account number to the DDD Regional Contracts Manager and the new agency with general directions on how to handle background check authorizations.
4. If changes are needed to an existing account:
  - a. The contractor must contact the DDD HQ Background Check Coordinator directly with his/her account number and requested changes.
  - b. DDD HQ will submit change information to the BCCU. Changes are usually effective in 24 hours.

#### **I. Access to Information**

1. BCCU generally provides the results of the background inquiries to the requestor within fourteen (14) working days, except for FBI inquiries which may take six (6) weeks or longer.
2. Only information related to the disqualifying crime will be sent to the requestor.
3. Only designated and trained staff responsible for the screening, faxing, mailing, and receipt of background checks results should have access to the background information records. Information must be kept in a secure location. Applicants have the right to expect all background check information will be kept confidential.

#### **J. Noncompliance**

Failure of providers or contractors to adhere to this policy will constitute a breach of contract.

#### **EXCEPTIONS**

Any exception to this policy must be allowable by law and have the prior written approval of the Division Director.

#### **SUPERSESSION**

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TITLE:

BACKGROUND AUTHORIZATIONS

POLICY 5.01

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DDD Policy 5.01

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DDD Policy 5.01

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Approved:     /s/ Linda Rolfe      
Director, Division of Developmental Disabilities

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