

## **Administrative Policy No. 18.63**

**Subject:** Employee Background Check Requirements

**Information Contact:** Human Resources Division

**Authorizing Source:** [RCW 43.43.830](#) through [RCW 43.43.842](#)  
[RCW 9.96A.060](#)  
[RCW 72.05.440](#)  
[RCW 71.09.300](#)  
[RCW 43.20A.710](#)  
[Chapter 10.97 RCW](#)  
[Chapter 388-06 WAC](#)  
[Chapter 388-101 WAC](#)  
[5 CFR, Part 731.202](#)  
Fed regulation re: IRS/PUB 1075

**Effective Date:** May 19, 2011

**Revised:** May 24, 2023 <sup>01 Housekeeping update June 1, 2023 - 02 Housekeeping 2/26/24</sup>

**Approved By:** **Original signed by Wendy Long**  
Senior Director, DSHS Human Resources

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### **Purpose**

This policy establishes expectations for the Department of Social and Health Services (DSHS) to conduct background checks for DSHS employees, applicants for employment, volunteers, and student interns.

### **Scope**

This policy applies to all DSHS covered positions, appointing authorities, and hiring authorities.

### **Additional Guidance and Resources**

- [Human Resources Division Guidelines for Conducting Employee Background Checks – Implementing Administrative Policy 18.63](#)
- [Background check authorization form DSHS form 09-653](#)
- [Character, competence, and suitability assessment 03-506](#)

- [Secretary's list of crimes and negative actions for access to vulnerable people](#)
- [Background check central unit website](#)
- [Retention schedule for series 106 background check central unit](#)

## Definitions

For purposes of administrative policy 18.63, the following definitions apply. Additional definitions that apply to this policy are in the DSHS guidelines for conducting employee background checks.

**Applicant** means any person who has applied for work in a DSHS covered position, including current employees moving for any reason or moving to a position because of transfer, promotion, demotion, elevation, layoff, or reversion. Applicant also means volunteers, students, and interns serving or working in a similarly situated position or any person who must meet state and federal background check requirements to conduct research, contract, or work in a DSHS covered position.

**Appointing authority** means an individual or designee lawfully authorized to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

**Background check central unit (BCCU)** means the program responsible for compiling and distributing background check information for the Department of Social and Health Services.

**Background information** means information provided by the applicant and the result of the background search, enclosed letters, affidavits, identification information, court documents, and other documentation relating to a background search.

**Character, competence, and suitability (CCS)** means the documented assessment of the capability of an employee or applicant to work or serve in a DSHS covered position after review of the employee or applicant's criminal convictions, pending charges, and civil adjudication proceedings

**Child or children** means any person under the age of eighteen.

**DSHS-covered position** means a position designated to have:

- Unsupervised access to vulnerable adults, juveniles, and children;
- Access to the internal or federal databases where a background check is required by federal statute, regulation, or guideline. This includes positions with federal tax information (FTI) or healthplanfinder (HPF) access; or
- Access to the internal databases in the background check central unit and the division of disability determination services.

**Division of disability determination services (DDDS)** means the program contracted to perform medical determinations for the Social Security Administration (SSA) in accordance with the SSA regulations and requirements.

**Federal tax information (FTI)** means federal tax returns and return information (and information derived from it) that is in the agency's possession or control which is covered by the confidentiality protections of the IRC and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as sensitive but unclassified information and may contain personally identifiable information (PII). FTI includes return or return information received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration (SSA), Federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS), or Centers for Medicare and Medicaid Services (CMS), or another entity acting on behalf of the IRS pursuant to an IRC 6103(p)(2)(B) Agreement.

**Negative action** means an official action considered under individual program law and rule, which may lead to denial of unsupervised access to vulnerable adults, juveniles, and children. A negative action is an official action taken against an individual and may include:

- A finding issued by an agency, an administrative law judge, or a court of law that an individual abused, neglected, exploited, or abandoned a vulnerable adult, juvenile or child.
- 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 an agency negative action.
- Revocation, suspension, denial, or restriction placed on a professional license.
- Department of Health disciplining authority finding.
- A pending charge or an action that is "unknown."

**NOTE:** A finding by an agency is not a negative action if the individual did not have the opportunity to request an administrative hearing to contest the finding.

**Pending charge or pending action** means a charge or action awaiting a decision by a court or a civil adjudication proceeding. The term pending charge also includes specific types of court action where the defendant has agreed to certain conditions. Examples include a deferred prosecution or a stipulated order of continuance on an agreed condition. DSHS considers these types of cases as pending until the conditions set forth by the civil or criminal proceeding are successfully met and the case is dismissed.

**Permanent employee** means an individual who has successfully completed a Washington general service probationary or trial services period or Washington management service review period after appointment to a permanent position.

**Position with access to sensitive information** means the duties of the job allow access to internal secure databases housed in the BCCU and the DDDS.

**Re-check** means a subsequent background check conducted for the same person in the same position as the initial background check.

**Secretary's list of crimes** (secretary's list) means the list designated by the secretary of the Department of Social and Health Services setting out the criteria applied to applicants and employees who work or are applying to work in a DSHS-covered position with unsupervised access to vulnerable people. *Secretary's list of crimes and negative actions for positions with unsupervised access to vulnerable people.* See Appendix A

**NOTE:** A secretary's list is not required for positions with access to sensitive information to determine suitability because federal and state laws require individual review of each crime and conviction. Determination of suitability of an applicant to access sensitive information is unique to the duties of the position, the seriousness of the crime, and the time that has passed since the conviction.

**Self-disclosure** means any background information provided directly by an applicant or employee including arrests, charges, convictions, negative actions, court-imposed sanctions or conditions, or pending allegations or charges. Self-disclosure may occur prior to employment and at any time during employment.

**Sensitive information** means personally identifiable information kept in a secure federal or state database. The information can be changed, deleted, or misused by employees with access to the database. Currently, positions with access to sensitive information are located in the BCCU and DDDS.

**Unsupervised access to vulnerable people** means working with or being in the presence of vulnerable adults, juveniles, or children out of sight of:

- An employee who has passed a background check
- A parent, relative, or guardian of the vulnerable adult, juvenile, or child

**Vulnerable adult** means a person who is a client of DSHS, and has at least one of the following characteristics:

- Is sixty years of age or older with a functional, mental, or physical inability to care for themselves;
- Has been found legally incapacitated under [chapter 11.88 RCW](#);
- Has a developmental disability as defined under [RCW 71A.10.020](#);
- Is admitted to any facility operated by DSHS;

- Is receiving services through a DSHS contracted, authorized, certified, or licensed service provider, or individual provider, including those certified under [RCW 71.24.590](#);
- Is receiving services through home health, hospice, or home care agencies licensed under [Chapter 70.127 RCW](#);
- Meets the definition of a vulnerable adult as defined in [Chapter 74.34 RCW](#).

## **Policy Requirements**

This policy sets the DSHS requirements for conducting background checks for applicants and employees and requires DSHS personnel to follow the detailed procedures outlined in the department guidelines for conducting employee background checks.

Nothing in this policy limits DSHS from accessing and using additional sources of background information.

### **A. Background check policy, rule, and statute**

When developing, revising, or amending internal division or administration background check policy, rules, procedures, or legislation all administrations must notify the human resources division representative to the background check advisory group and the manager of BCCU to ensure and promote department-wide consistency in background check process and policy.

### **B. Administration access to BCCU services**

Appointing authorities must:

1. Determine which of their offices will receive approval to request and receive background information through the BCCU as described in [Guideline 5](#).
2. Notify the BCCU of any change in the status of an office granted approval to request and receive background information as described in [Guideline 5](#).

### **C. Conducting background checks and CCS**

Appointing authorities must:

1. Notify HRD, employees, and applicants about background check requirements of DSHS-covered positions as described in [Guideline 13](#).
2. Conduct background checks and consider background information as required by state and federal law, and regulation as described in [Guideline 4](#).

3. Review the result notification provided by BCCU as described in [Guideline 9](#) and [Guideline 10](#).
  - a. When a “review required” is issued by BCCU, appointing authorities must:
    - i. Assess and document an applicant or employee’s character, competence, and suitability (CCS) to work or serve in a DSHS-covered position when the applicant or employee’s background information is not automatically disqualifying. See [Guideline 9](#), [Guideline 10](#), [Guideline 11](#), and the [CCS Assessment form 03-506](#).
    - ii. Consult with HRD on any background check finding for current employees.
4. Deny a permanent employee appointment or continued employment in a DSHS-covered position as described in [Guideline 20](#) if the employee’s background is determined unsuitable for a DSHS-covered position.
5. Deny appointment or continued employment in a DSHS-covered position as described in [Guideline 28](#) if an applicant fails to submit a signed background authorization form.
6. Ensure that hiring authorities and DSHS employees do not revise or otherwise alter a completed and signed background check authorization form as described in [Guideline 6](#) in any way for any reason.
7. Ensure that DSHS employees always receive an applicant-signed and completed background authorization form as described in [Guideline 6](#) prior to submitting a background request to the background check central unit (BCCU).
8. Ensure that hiring authorities verify an applicant’s identity and signature as described in [Guideline 6](#) prior to submitting a background request to the BCCU.
9. Ensure that the administration, division, and unit(s) review and communicate the expectations and procedures in this policy with staff at all levels of the organization.

#### **D. Documentation and tracking of DSHS-covered positions**

Appointing authorities must document and track department covered positions as described in [Guideline 13](#) and:

1. Inform the human resources division of all positions identified as DSHS-covered positions.
2. Keep records of the position numbers for DSHS-covered positions for which the appointing authority is responsible.

3. Document the completion of a background check for each applicant identified as a finalist for a DSHS-covered position.
4. Document the outcome and the appointing/hiring authority decision of any re-check conducted as allowed under state or federal law or regulation.

#### **E. Exemptions and waivers**

Unless state or federal law or regulation provide a specific exception to the law, waivers must NOT be granted to an employee or applicant whose background check result prevents them from working in a DSHS-covered position. [Guideline 21](#).

#### **F. Conditional hire**

To appoint an applicant on a conditional basis pending the result of the background check the appointing authority must ensure the following:

1. State or federal law or rule permits conditional hire for unsupervised access.
2. The DSHS-covered position is with a DSHS residential care facility.
3. The appointing/hiring authority officially approves the conditional hire for the specific position.
4. Within 24 hours of conditional hire, the appointing/hiring authority transmits the applicant or employee's signed background authorization form to BCCU.

#### **G. Permanent employee denied DSHS-covered position**

1. Permanent employees denied a DSHS-covered position may be subject to the actions described in [WAC 388-06-0630](#) and [Guideline 20](#).
2. Appointing authorities must determine the appropriate action available to the employee described in [WAC 388-06-0630](#) and [Guideline 20](#).

#### **H. Appointing authority decision and review by the secretary**

1. If requested by a permanent employee, the secretary or designee must conduct a review of the decision to deny appointment or continued employment as described in [Guideline 17](#).
2. Under the conditions specified in [Guideline 19](#), a permanent employee may present specific additional information to the secretary or designee.

3. If the review by the secretary or designee results in the permanent employee retaining their current DSHS-covered position, the employee may remain in that position only.
4. In the future if the employee applies for a different DSHS-covered position, as with any applicant, the appointing authority must consider the employees' background information.

#### **I. Reporting changes in background information**

1. Employees, volunteers, and student interns must report to their immediate supervisor any changes in their background information that may prevent continued employment in a DSHS-covered position. This includes self-disclosure of arrests, charges, convictions, negative actions, court-imposed sanctions or conditions, or pending allegations or charges. Self-disclosure may occur prior to employment and at any time during employment. See [Guideline 22](#).
2. Employees in a DSHS-covered position are subject to disciplinary action for failing to report changes in their background information within 24 hours of the incident or prior to the start of the next scheduled shift.
3. The appointing/hiring authority must request that the employee, volunteer, and student interns complete a DSHS background authorization [Form 09-653](#) and must conduct and document a review. Documentation must include:
  - a. The source of the report;
  - b. The convictions, pending charges, or negative actions reported;
  - c. The result of the background check.
4. The appointing authority must review the reported background information and must:
  - a. Review any new background information using the secretary's list of crimes.
  - b. Decide if the conviction, pending charge, or negative action appears on the secretary's list of crimes.
  - c. Conduct a character, competence, and suitability assessment and:
    - i. Consult with HRD;
    - ii. Determine the potential risk of unsupervised access to DSHS clients;
    - iii. Determine the seriousness of the convictions, pending charges, or negative actions in relationship to the duties of the DSHS-covered position; and
    - iv. Deny unsupervised access if the crime, pending charge, or negative action appears on the secretary's list.
5. When a change in status occurs (outlined in I.1) for a licensed or regulated profession, the appointing authority must notify the professional board that provides oversight

(e.g., Department of Health, Nursing Care Quality Commission, etc.).

6. To ensure the safety of clients and reduce the potential of risk, the appointing authority must accept a report of a change in background check status from any source as described in [Guideline 7](#), and must follow and document the process described in [Guideline 28](#).

#### **J. Fingerprint checks**

If required by state or federal law or regulation the appointing authority may conduct national fingerprint-based background checks for DSHS employees and applicants as described in [Guideline 25](#).

#### **K. Prohibited acts**

Appointing authorities must ensure that:

1. All DSHS employees with access to signed background check authorization forms do not intentionally modify, redact, alter, or complete an incomplete background authorization form by any manner, means, or way as described in [Guideline 6](#).
2. All DSHS employees processing background check authorization forms must not accept or process any form that is not fully completed and signed as required by DSHS as described in [Guideline 6](#).
3. Any DSHS employee whose duties include electronic processing of background check authorization forms through the DSHS electronic database must input information EXACTLY and only as it appears on the completed and signed form as described in [Guideline 6](#).
4. Failure to follow these restrictions may subject an employee to disciplinary action.

#### **L. Confidentiality and release of background information**

1. All appointing authorities must maintain the confidentiality and security of background information as described in [Guideline 27](#).
2. All appointing authorities, as described in [Guideline 11](#), must inform the applicant or employee that the applicant or employee may:
  - a. Receive a copy of the background check result;
  - b. Review the result with the appointing authority;
  - c. Correct any incorrect background information by following instructions in the BCCU result letter.

3. All appointing authorities must release background information and completed authorization forms as allowed under federal and state law as described in [Guideline 26](#).

#### **M. Retention**

All administrations must retain and store completed background check authorization forms, background check results, character, competence, and suitability assessments and all other background information as required in the [Washington Retention Committee Retention Schedule Series 106](#) as described in [Guideline 29](#).

Housekeeping update for broken link on June 1, 2023.

<sup>02</sup> Link updates 2024 SharePoint move.