	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 13: Background Checks	**Effective Date:** June 1, 2021
	Section 03: Conducting Background Checks for DCS Contractors	**Version:** 6

STATEMENTS OF PURPOSE

This policy does not apply to contractors of Licensed Residential Agencies or Licensed Child Placing Agencies (LCPAs). See policy, 13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agency for further information. This policy also does not apply to leases where DCS is the tenant or the subtenant.

The Indiana Department of Child Services (DCS) requires background checks on all employees, volunteers, and interns of DCS Contractors.

DCS defines a contractor as any individual, group of individuals, partnership company, agency, or corporation (or a division of a larger company/agency/corporation), as well as a subcontractor, who has direct contact with children and families served by DCS or access to child, family, employee, or contractor information.

> **Exception:** Background Checks will not be required when a service or product being provided meets all three (3) of the following criteria:
> a. Meets an emergency need that is not anticipated to occur again in the future,
> b. The emergent nature of the situation prohibits the completion of background checks prior to service or products being provided, **and**
> c. The DCS contractor will be accompanied at all times by an individual who has cleared all DCS background checks successfully.

All required background checks must be completed prior to the contractor submitting the contract/Memorandum of Understanding (MOU)/Agreement for State/County/Agency signature.

DCS will conduct the following background checks for DCS Contractors (and their employees, volunteers, interns, and subcontractors):

1. Fingerprint-Based National Criminal History Check (Fingerprint-Based Check);
2. National Sex Offender Registry Check;
3. Child Protective Services (CPS) History Check and Child Protection Index (CPI); and
4. Local Criminal Court Records Check.

The type of background check conducted will vary based on the age of the subject for the Contractor.

DCS will maintain confidentiality of all information gained during the background check process, following all applicable state and federal laws. See policy, 2.6 Sharing Confidential Information for additional information.

Fingerprint-Based Checks conducted for a specific contractor and purpose may not be used for the same purpose with a different contractor. See policy, 13.15 Fingerprint-Based Checks for more information.

Initial Contract Award

For those with direct contact with children on a regular and continuing basis or any contact when a child is alone or only with the contractor's staff in connection with his or her performance of any services or activities pursuant to a contract (A-1 Level Covered Personnel) with DCS, a background check will consist of the following for initial award of a DCS contract:

1. A CPS History Check must be completed in every state in which the subject of the check has resided in the last five (5) years, for all persons 14 years of age and older;
2. A National Sex Offender Registry Check must be completed, on all possible aliases in every state in which the subject of the check has lived during the last five (5) years, for all persons 14 years of age and older;
3. A Local Criminal Court Records Check must be completed in every criminal court jurisdiction in which the subject of the check has lived during the last five (5) years, for all persons 18 years of age and older; and
4. A Fingerprint-Based Check must be completed and returned with qualified results, for all persons age 18 years of age and older. See policy 13.15 Fingerprint-Based Checks for further guidance.

For those subjects who only have electronic or physical access to children's records (A-2 Level Covered Personnel), a background check will consist of the following for initial award of a DCS contract:

1. CPS History Check in every state in which the subject of the check has lived in the last five (5) years, and
2. National Sex Offender Registry Check in every state in which the subject of the check has resided during the past five (5) years for all possible aliases.

Any staff person who might serve as a substitute for a Covered Personnel, even in emergency circumstances, should undergo the checks required for the covered position. Any staff that either has a direct report that is a Covered Personnal or somewhere in their downline is a Covered Personnel, that manager is a Covered Personnel at the highest level of their downline, even if the manager does not complete the activities that require background checks.

Once a contractor has an effective DCS contract, all background checks must be completed and passed prior to Covered Personnel performing any activities related to the DCS contract.

Four (4) Year Requirement

The required background checks must be performed every four (4) years, based on the anniversary of the initial checks.

Code References

1. IC 10-13-3-27: Release of data to noncriminal justice organization or to individuals; national crime information center data restricted; penalities
2. IC 10-13-3-38.5: Use of fingerprints for employment or license; retention of fingerprints; requirement to submit to fingerprint background check based on access to condfidential tax information

PROCEDURE

DCS will check for the DCS Contractor's compliance with completion of the following for all Covered Personnel:

1. Verify the identity of each subject of the check, regardless of age (see policy, 2.9 Verifying Identity);
2. Have the subject of the check complete the Application for Criminal History Background Check (SF 53259):
   a. The subject of the check must sign and date the form, and
   b. The DCS Contractor will place the original form in the subject's personnel file.

3. Register the person 18 years of age and older for the Fingerprint-Based Check. See policy 13.15 Fingerprint-Based Checks for additional information;
4. Conduct a National Sex Offender Registry Check for all persons 14 years of age and older and print the results, using the Dru Sjodin National Sex Offender Public website;
   a. Each name or combination of names used within the subject's lifetime must be searched individually. Upon obtaining the results of the name- based search, the results should be printed,

   Note: When searching a common name, if the results show multiple matches, narrow the search by state. If this occurs, search every state in which the subject of the check has lived during the last five (5) years.

   b. The results must be signed and dated by the reviewing DCS Contractor Agency worker,
   c. The reviewer at the DCS Contractor Agency will write "NO MATCH" on the printed page if there is no match.

   Note: The DCS Contract Agency cannot hire or allow the subject of the check to volunteer at the facility if there is a match. If the subject of the check is already employed or volunteering, then he or she must be dismissed. See policy 13.04 Evaluation of Background Checks for DCS Contractors for additional guidance.

5. Conduct a CPS History Check for all persons by:
   a. Initiating the necessary search for a CPS History Check in Indiana by utilizing the CPI/CPS electronic portal submission;

   Note: If the subject of the check has not resided in Indiana during the last 5 years a CPS History Check in Indiana is not required.

   b. Conducting a CPS History Check search for every other state in which the individual has lived for the past five (5) years, if applicable. Information for a CPS administrator to process your search request may be found on the Out-of-State CPS Contact List, and
   c. Referring to policy 13.16 Waivers for further required action if the person has CPS history in any state.

6. Conduct a Local Criminal Court Records Checks by completing a court record search, on the subject's name and all aliases, within each county court and applicable city courts in jurisdictions in which the subject resided during the past five (5) years. For further guidance, see the Local Criminal Court Records Check Instructions.

PRACTICE GUIDANCE

Notifying DCS of Substantiation of Child Abuse and/or Neglect (CA/N), Arrest, or Convictions

The contractor shall immediately (within 24 hours) notify DCS of any substantiation of CA/N, arrest, or conviction of Covered Personnel. The DCS Division responsible for the contract will contact the Central Office Background Check Unit (COBCU) and the severity and seriousness of the offense will be evaluated on a case-by-case basis.

FORMS AND TOOLS

1. Application for Criminal History Background Check (SF 53259)
2. Request for a Child Protection Services (CPS) History Check SF 52802)
3. Local Criminal Court Records Check Instructions
4. Out-of-State CPS Contact List

RELATED INFORMATION

Inaccurate Criminal Records

If any of the Fingerprint-Based Criminal Checks conducted reveal an inaccurate record, the record may be formally challenged. A Review Challenge of inaccurate information must be made to the arresting agency. For Indiana convictions, this would be made to the Indiana State Police (ISP).

Covered Personnel

Covered personnel is any person that is required by a contract or DCS policy to have some level or type of a background check as a DCS contractor, subcontractor, administrator, employee, and/or volunteer. The two (2) levels of covered personnel are:

1. A-1 Level Covered Personnel: Personnel employed or volunteering in a capacity in which the subject of the check has the expectation of direct contact with children, in connection with performance of any services or activities pursuant to the contract with DCS; and

   Note: Personnel designated as A-2 Level Covered Personnel could become A-1 Level Covered Personnel at any time as duties or responsibilities change to include A-1 Level Covered duties, services, or activities.

2. A-2 Level Covered Personnel: Personnel employed or volunteering in a capacity in which the subject of the check has the expectation of electronic or other access to children's child welfare or DCS information, in connection with performance of any services or activities pursuant to the contract with DCS.

   Note: Personnel designated as not A-2 Level Covered Personnel could become A-2 Level Covered Personnel at any time as duties or responsibilities change to include A-2 Level Covered duties, services, or activities.

Other Access to Information

For purposes of the A-2 Level Covered Personnel definition, other access to a child's child welfare or DCS information includes both access to physical records and access to overhear information about a child's child welfare or DCS information.

Direct Contact with Children

For purposes of A-1 and A-2 Level Covered Personnel definitions, direct contact with children means any direct contact with a child, regardless of whether another adult or a parent is present.