

 <b>INDIANA</b> DEPARTMENT OF <b>CHILD</b> SERVICES	<b>INDIANA DEPARTMENT OF CHILD SERVICES</b> <b>CHILD WELFARE POLICY</b>	
	<b>Chapter 13:</b> Background Checks	<b>Effective Date:</b> June 1, 2021
	<b>Section 04:</b> Evaluating Background Checks for DCS Contractors	<b>Version:</b> 8

## STATEMENTS OF PURPOSE

*This policy does not apply to contractors of Licensed Residential Agencies or Licensed Child Placing Agencies (LCPAs). See policy 13.02 Evaluating 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) will evaluate the results of Fingerprint-Based National Criminal History Checks (Fingerprint-Based Checks) on all DCS Contractor Agencies and Subcontractor Agencies (referred to collectively as “DCS Contractor Agencies”). DCS Contractor Agencies will evaluate the remaining background checks. See policy 13.03 Conducting Background Checks for DCS Contractors for additional information.

DCS Contractor Agencies will immediately ensure the subject of the check will not be employed or volunteer in connection with performance of any services or activities pursuant to the contract/subcontract with DCS if the criminal or waiver process reveals any of the following:

1. Disqualifying criminal history that is not eligible to be waived,
2. Disqualifying criminal history or substantiated CPS history in which a waiver action is not supported or pursued by the DCS Contractor Agency; or
3. Disqualifying criminal history or substantiated CPS history in which a waiver is not granted by DCS.

### Fingerprint-Based Check

The DCS Central Office Background Check Unit (COBCU) will evaluate the results of the Fingerprint-Based Check and notify the assigned contact person at the DCS Contractor Agency by sending the Fingerprint-Based Check Status Letter via e-mail. See policy 13.15 Fingerprint-Based Checks for additional information.

### Child Protective Services (CPS) History Checks

DCS Contractor Agencies will review the completed CPS History Check results for persons from Indiana and all other states of residency within the past five (5) years (if applicable). DCS Contractor Agencies will determine if there are reports of any substantiations of child abuse and/or neglect (CA/N) for the subject of the check. If there is substantiated CPS history in Indiana or the equivalent in another state, the request and approval by COBCU of a CPS waiver is required for consideration of continued employment and/or volunteering. See policy 13.16 Waivers for additional information.

### National Sex Offender Registry Check

DCS Contractor Agencies will evaluate the National Sex Offender Registry Check to determine if there are any matches. If there is a match, the subject of the check cannot be employed or volunteer for the contractor; and the DCS Contractor Agency will immediately notify the COBCU via COBCUinquiry@dcs.in.gov. The COBCU will re-evaluate the Fingerprint-Based Check report and reissue an amended Fingerprint-Based Check Status Letter, if applicable.

### **Local Criminal Records Check**

DCS Contractor Agencies will evaluate the results of the Local Criminal Records Checks. If the name-based court record check returns convictions for a felony, four (4) or more misdemeanors, or a misdemeanor that may relate to the health and safety of a child, DCS Contractor Agencies shall contact the COBCU fingerprint consultant listed on the Fingerprint-Based Check Status Letter for additional guidance if the Fingerprint-Based Check Status Letter was qualified.

### **Code References**

1. [IC 10-13-3-38.5 Conducting Fingerprint Criminal History Checks for Contractors](#)
2. [IC 10-13-3-27 Disclosure of State Limited Criminal History Information](#)
3. [IC 31-9-2-84.8: Nonwaivable offense](#)

### **PROCEDURE**

DCS Contractor Agencies will complete the following:

1. Review the Fingerprint-Based Check Status Letter received from COBCU; The fingerprint-based status must be “Qualified” for the subject of the check to be hired or volunteer with a DCS Contractor Agency, unless a waiver has been granted. See policy 13.15 Fingerprint-Based Checks for additional required steps, guidance on evaluating the Fingerprint Based Check, and information regarding possible fingerprint qualification statuses (i.e., Qualified, Incomplete – Documentation Necessary, and Disqualified). See policy 13.16 Waivers for information regarding eligibility for and process of requesting a waiver;

**Note:** If the subject of the check is already employed or volunteering with the DCS Contractor Agency and receives a fingerprint qualification status of:

- a. “Incomplete – Documentation Necessary”, the subject of the check must have the incomplete status resolved within 10 business days. If resolved satisfactorily, the DCS Contractor Agency will receive an amended Fingerprint-Based Check Status Letter of “Qualified” from COBCU before the end of the 10<sup>th</sup> business day, or
- b. “Disqualified”, the DCS Contractor Agency will immediately remove the subject of the check from the work schedule, unless a waiver has been granted.

If the DCS Contractor agency does not receive an amended “Qualified” fingerprint-based status within the timeframe or a waiver decision of “Waiver Granted”, the DCS Contractor Agency will immediately remove the subject of the check from the work schedule in connection with the performance of any services or activities pursuant to the contract/subcontract with DCS.

2. Review the results of the CPS History Check;
  - a. Give the subject of the check a copy of the completed Indiana Request for a Child Protection Services (CPS) History Check (SF52802) or equivalent CPI/CPS portal report showing substantiated history if substantiated CPS history is discovered from Indiana. See policy 2.06 Sharing of Confidential Information for additional information, and
  - b. Work with the subject of the check to complete and submit a waiver packet to COBCU as quickly as possible if a CPS substantiation is discovered and the DCS Contractor Agency is in support of pursuing the CPS history waiver. See policy 13.16 Waivers and 13.E Tool: DCS Contractor Waiver Packet for information regarding applying for a waiver.

**Note:** A request for a CPS waiver should be filed and processed at the time of the initial contract award, every four (4) years (based on the anniversary of the covered individual's personnel initial checks), prior to hiring, or upon discovery of any additional CPS substantiation (which was not previously granted a CPS waiver) if discovered between these times. The request for the waiver must be granted by COBCU for the employee or volunteer to be employed or volunteer as part of the DCS Contractor Agency. If the subject of the check is already hired or volunteering, the DCS Contractor Agency will immediately remove the subject of the check from the work schedule, in connection with the performance of any services or activities pursuant to the contract/subcontract with DCS.

3. Review the results of the National Sex Offender Registry Check for a match to the subject of the check. If there is a match for the subject of the check, the DCS Contract Agency cannot hire or allow the subject to volunteer at the facility. If already employed or volunteering, then the subject of the check must be dismissed;
4. Review the results of the Local Criminal Records Checks. For further information regarding the Local Criminal Records Checks, see the Local Criminal Records Check Instructions – Available on the Background Check Resources SharePoint; and

**Note:** Contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter within five (5) days if the Fingerprint-Based Check Status Letter was qualified and the Local Criminal Records Check returns convictions of:

- a. A felony,
- b. Four (4) or more misdemeanors, or
- c. A misdemeanor related to the health and safety of a child.

The COBCU Consultant will re-evaluate the Fingerprint-Based Check Status Letter and, if necessary, issue a new amended status letter. If at any time a DCS contractor agency believes the Local Criminal Records Check report may alter the Fingerprint-Based Check Status, the DCS contractor will contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter for further action.

5. Place a copy of the results for all background checks and any waiver letters in the employee's or volunteer's personnel file.

**Note:** A criminal history or CPS waiver granted for the purpose of employment or volunteering with a DCS Contractor Agency may not be used for any additional purpose. A new waiver request must be submitted and granted if there is a change of position such as a promotion within the same agency or for each additional agency. See policy 13.03 Conducting Background Checks for DCS Contractors for additional information.

The DCS COBCU will:

1. Evaluate the criminal history report within five (5) business days of receipt of the Fingerprint-Based Check and notify, by e-mail, the DCS Contractor Agency's assigned contact person regarding the clearance status. See policy 13.15 Fingerprint-Based Checks for additional information;
2. Provide guidance regarding Incomplete – Information Necessary or Disqualified applicants and DCS Contractor Agencies. See policy 2.06 Sharing Confidential Information for additional information; and

3. Re-evaluate history based on the documentation received from the subject and issue a new Fingerprint-Based Check Status Letter, when applicable.

**Note:** For waivers of disqualified criminal history and substantiated CPS history, see policy 13.16 Waivers.

## PRACTICE GUIDANCE

### **Disclosing Criminal History Check Information**

A copy of the official Federal Bureau of Investigations (FBI) and the Indiana State Police (ISP) transcript will not be provided to the DCS Contractor Agencies nor the subject of the check. DCS may verbally disclose the specific crimes to the subject of the check. If any of the checks conducted by DCS reveal an inaccurate record, the subject of the check may formally challenge the record. The process of the Review Challenge takes place between ISP and the subject of the check, and DCS is not involved in the process. A Review Challenge of inaccurate information in Indiana is made to ISP. A Review Challenge for criminal history records outside of Indiana must be made to the Law Enforcement Agency (LEA) that posted the record. The subject of the check must be fingerprinted for the Review Challenge, at the subject's expense.

## FORMS AND TOOLS

1. [Indiana Request for a Child Protection Services \(CPS\) History Check \(SF52802\)](#)
2. Local Criminal Records Check Instructions – available on the [Background Checks website](#)

## RELATED INFORMATION

N/A