

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 13: Residential and Agency Licensing	Effective Date: 3/1/07
	Section 2: Evaluation of Background Checks for Residential and Agency Licensing	Version: 1

POLICY	OLD POLICY: 613.1
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The Indiana Department of Child Services(DCS) Central Office Background Check Unit will evaluate all Federal Bureau of Investigation (FBI) transcript reports and fingerprint-based Indiana State Criminal History Check reports received and notify the appropriate agency or individual regarding the criminal history qualification status.

DCS-licensed agencies and facilities will receive notice -stating whether the applicant or volunteer (including interns)is qualified, conditionally disqualified or disqualified based upon the results of the official FBI transcript but **will not** receive a copy of the official FBI transcript.

For purposes of applying for a license as a residential facility or agency and for employment/volunteering/interning in a residential facility or agency, DCS Central Office Background Check Unit will disqualify a person based upon the person’s criminal history if:

1. the applicant or
2. the applicant’s employee//volunteer/intern whohas or will have direct contact, on a regular and continuing basis, with children supervised by the applicant has been convicted of any felony or misdemeanor related to the health and safety of a child.

DCS Central Office Background Check Unit will consider a request for waiver of the disqualifying felony if the person convicted of the felony submits written evidence that would convince a reasonable person that he/she has been rehabilitated and that he/she does not pose a risk to the health, welfare and/or safety of children. The letter must be signed by the applicant, the employee/volunteer/intern, the human resource officer of the employing agency, and the agency director.

The Background Check Review Team is comprised of the Central Office Licensing Unit Manager and consultant, a residential licensing person, a background check worker, the local DCS office director and the regional manager in the county/region in which the facility will be/is located. This body will make decisions regarding requests for waivers. A waiver may be granted if the following conditions apply:

1. The subject of the check was convicted for a felony not listed below.
2. The Licensing Unit Manager and Background Check Review Team agree that the felony will not be used as grounds for denial.
3. The subject of the check is not currently on probation or parole.
4. The subject of the check has not been convicted of a misdemeanor related to the health and safety of a child or any of the felonies listed below.

1. Murder (IC 35-42-1-1)
2. Causing suicide (IC 35-42-1-2)
3. Assisting suicide (IC 35-42-1-2.5)
4. Voluntary manslaughter (IC 35-42-1-3)

5. Reckless homicide (IC 35-42-1-5)
6. Battery (IC 35-42-2-1)
7. Domestic battery (IC) 35-42-2-1.3)
8. Aggravated battery (IC 35-42-2-1.5)
9. Kidnapping (IC 35-42-3-2)
10. Criminal confinement (IC 35-42-3-3)
11. A felony sex offense under IC 35-42-4
12. Carjacking (IC 35-42-5-2)
13. Arson (IC 35-43-1-1)
14. Incest (IC 35-46-1-3)
15. Neglect of a dependent (IC 35-46-1-4(a)(1) and (IC 35-461-4(a)(2))
16. Child selling (IC 35-46-1-4(d))
17. A felony involving a weapon under IC 35-47 or IC 35-47.5
18. A felony relating to controlled substances under IC 35-48-4
19. An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3
20. A felony that is equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

DCS Central Office Background Check Unit will conditionally disqualify a subject:

1. for any criminal charges, other than those listed above, that do not have a disposition. The subject will remain in conditionally disqualified status until the subject provides the Central Office Background Check Unit with a copy of the Court docket from the county clerk or from the Court where the charges were filed to verify the disposition or amendment of the charges or arrest.
2. if the subject has been convicted of four (4) or more crimes. The subject will remain in disqualified status until he/she provides the Central Office Background Check Unit with verification that would convince a reasonable person that the subject would not pose a threat to the safety or well-being of a child placed in the subject's care. This should include the length of time since the conviction and a summary of how the subject has been rehabilitated.

The employer will evaluate the results of the following:

1. Child Protection Services History
2. Sex and Violent Offender Registry
3. Local police/sheriff records

Code References

[IC 31-27-4-5: Applying for license](#)

[IC 31-27-4-6: Grounds for denial of license applications](#)

[IC 31-27-4-13: Denial of license](#)

[IC 31-27-4-16: Duration of license; limitations; renewal](#)

[465 IAC 2-1: Licensing of Boarding Homes for Children](#)

PROCEDURE

The Central Office Background Check Unit will conditionally disqualify a subject based upon the person's criminal history, if;

1. the subject has arrests or charges on either criminal history report that do not have a disposition. The subject of the check will remain in conditionally disqualified status

until the subject provides the Central Office Background Check Unit with a copy of the Court docket from the county clerk or from the Court where the arrests occurred or charges were filed to verify the disposition or amendment of the arrests or charges.

NOTE: Upon receipt of a conditional disqualification notice, the facility or agency must have the subject of the check contact the Central Office Background Check Unit for information on the specific arrests or charges regarding what additional information is needed. It is the responsibility of the subject of the check to provide the Central Office Background Check Unit information to verify the disposition of all arrests and charges.

2. The subject has been convicted of four (4) or more crimes. The subject of the check will remain in conditionally disqualified status until the subject provides the Central Office Background Check Unit with verification that would convince a reasonable person that he/she would not pose a threat to the safety or well-being of the child(ren) that would be placed in the subject's care.

To receive a waiver or conditional disqualification resolution:

1. the subject must submit a letter that includes the following:
 - a. The length of time that has passed since the conviction, juvenile adjudication or child abuse or neglect substantiation.
 - b. The severity of the offense.
 - c. Evidence of the person's rehabilitation.
 - d. Signatures of the applicant or employee/volunteer/intern, the human resource officer of the employing agency, and the agency director. The licensing supervisor, local office director or agency director may submit letters of support for the subject of the check if they so desire

All exemption request and conditional disqualification resolution decisions must be approved by a Background Check Team. The team will consist of the regional manager and local office director in the county/region where the applicant is requesting licensure or is seeking employees/volunteers/interns and a member of the Central Office Background Check Unit. A team decision can be made via e-mail, telephone or in person.

The Central Office Background Check Unit will disqualify a subject based upon criminal history if it is determined that the Federal Bureau of Investigation's transcript report and fingerprint-based Indiana Criminal History Check Report reveal any conviction of a felony or misdemeanor related to the health and safety of a child.

The facility or agency will take the following steps:

1. Conduct and evaluate the results of the Child Protection Services History check. If the subject has been named as a perpetrator of child abuse or neglect, the investigative results as recorded on SF113/CW0311, must be sent to the Central Office Residential Licensing Unit Manager for evaluation.

NOTE: Only the Central Office Residential Licensing Unit Manager may approve the licensure of a facility or agency if the applicant or an employee/ /volunteer/intern of the facility/agency has been named as a perpetrator of child abuse or neglect

2. Conduct and evaluate the results of the Sex and Violent Offender Registry Check.

Neither the applicant nor any employee//volunteer/intern of the agency may be a registered sex or violent offender.

3. Conduct and evaluate the results of the local police/sheriff checks. If the applicant or an employee//volunteer/intern had been previously qualified by the Central Office Background Check Unit and the local police/sheriff check reveals a conviction or arrest without a disposition, a copy of the criminal history check must be submitted to the Central Office Background Check Unit for review. The Central Office Background Check Unit will evaluate the criminal history report and notify the appropriate agency regarding the qualification status..

PRACTICE GUIDANCE

- N/A

FORMS AND TOOLS

- N/A

RELATED INFORMATION

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