



State of Florida
Department of Children and Families

Ron DeSantis
Governor

Chad Poppell
Secretary

DATE: September 28, 2020

TO: Regional Managing Directors
Sheriff Offices Conducting Child Protective Investigations
Community-Based Care Lead Agency CEOs

THROUGH: Patricia Babcock, Deputy Secretary *Patricia Babcock*

FROM: Patricia Medlock, Assistant Secretary for Child Welfare *Pat Medlock*
Robert Anderson, Assistant Secretary for Operations *Robert H. Anderson*

SUBJECT: CFOP 50-1, Criminal Justice Information Services, Chapter 9, Fingerprint Applicant Notification and Acknowledgement; Chapter 10, Caretaker Screening; and Chapter 11, Exemption from Disqualification

PURPOSE: The purpose of this memorandum is to provide notification that CFOP 50-1, Criminal Justice Information Services, has a new Chapter 9, Fingerprint Applicant Notification and Acknowledgement; and Chapter 10, Caretaker Screening, and Chapter 11, Exemption from Disqualification have been updated.

BACKGROUND: Certain determinations, such as employment, licensing, and child placement may be predicated on fingerprint-based record checks. Applicant fingerprints and associated information may be provided to authorized requesting agencies conducting screenings for employment and licensing and/or the FBI for the purpose of comparing the fingerprints to other fingerprints in the FBI's system. The FBI and FDLE require that applicants submitting fingerprints be provided with written notice that (1) by submitting fingerprints the applicant is authorizing the dissemination of any state or national criminal history record that may pertain to the agency from which the applicant is seeking approval for employment, licensing, or access to a facility; (2) that the applicants fingerprints may be retained by FDLE and the FBI for the purpose of providing notice of subsequent arrests; (3) upon request, FDLE may provide a copy of the applicants criminal history record to the applicant; (4) that a copy of any national criminal history record that pertains to the applicant can be obtained directly from the FBI; and (5) that the applicant is entitled to challenge the accuracy and completeness of any information contained in any such criminal history record pursuant to s. 943.056, F.S., and Title 28, CFR, Section 16.30-34.

House Bill 1105 was passed during the 2020 Legislative session. It requires the department to complete a review of criminal history for the purpose of placement of children within 14 business days of receipt of the criminal history unless additional information is required to complete the processing. This bill went into effect July 1, 2020.

House Bill 1120 was passed during the 2020 Legislative session. It requires the Department to exempt from disqualification certain individuals with specific criminal offenses. It eliminates the requirement of a three-year waiting period for certain personnel after satisfaction of monetary requirements. This bill went into effect July 1, 2020.

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

CFOP 50-1, Chapter 9, Fingerprint Applicant Notification and Acknowledgement, has been created to detail the requirements to provide notification and obtain signed acknowledgements for every applicant submitting fingerprints for background screening purposes. The operating procedure also contains the Notification and Acknowledgement form provided by FDLE for this purpose.

CFOP 50-1, Chapter 10, Caretaker Screening, has been updated as follows:

- 10-4.c. is new and entitled Completion of Background Screening for Child Welfare; this new paragraph includes the requirement for completion of screenings for child welfare purposes, including the placement of children, within 14 business days of receipt of the criminal history.

CFOP 50-1, Chapter 11, Exemption from Disqualification, has been updated as follows:

- 11-4.j. has been revised to provide for the granting of an exemption from disqualification for specific offenses if the applicant does not have any other disqualifying offenses and has not been arrested in the past 5 years for service provider personnel and 3 years for peer specialist applicants.
- 11-4.k. has been revised to exempt disqualification of recovery residence personnel and recovery residence administrators for certain offenses.
- 11-11.a.(5-7) was updated to reflect changes in required documentation for the Agency for Persons with Disabilities exemption requests.

ACTION REQUIRED: Please share this memorandum and the new/updated CFOP 50-1, Chapters 9, 10, and 11 with all appropriate staff in the regions, circuits, Community-Based Care Lead Agencies, case management organizations, and sheriff offices conducting child protective investigations.

Those who work in background screening, operate live scan devices for applicant fingerprint submissions, case management, and other service providers that use DCF ORI's for fingerprint submissions should take particular note the Fingerprint Applicant Notification and Acknowledgement in Chapter 9.

CONTACT INFORMATION: If you have questions or need clarification regarding this memorandum or the changes to CFOP 50-1, Chapters 9, 10, or 11, please contact Diane Harris, Chief of Policy and Public Relations – Background Screening Program, at Diane.Harris@myflfamilies.com or 850-717-4636.

cc: Regional Family and Community Services Directors
Center for Child Welfare

Chapter 9

FINGERPRINT APPLICANT NOTIFICATION AND ACKNOWLEDGEMENT

9-1. Purpose. This chapter provides guidance to ensure that the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigations (FBI) privacy act notification is provided to applicants submitting fingerprints and that acknowledgement forms are maintained for federal audits.

9-2. Scope. This chapter is applicable to all Department of Children and Families employees involved in tasks related to the submission of fingerprints by applicants for background screening purposes.

9-3. General Requirements. The Department is required to provide applicants, submitting fingerprints for the purpose of searching Florida and national criminal history records, with a notification specific to the retention of fingerprints, privacy policy, and the right to challenge an incorrect criminal history record.

9-4. Notification and Acknowledgement Procedure.

a. The Agency for HealthCare Administration's (AHCA) Clearinghouse has functionality that provides these notifications for screenings conducted using that system.

b. For screenings not conducted using the AHCA Clearinghouse, FDLE provides a notification and applicant notification form located in Attachments 1 and 2 to this chapter. Screenings by the Department not currently conducted using the AHCA Clearinghouse include employment by the Department and relative/non-relative placement for children in out-of-home care.

c. Where fingerprints are submitted via electronic fingerprint submission and how appointments are scheduled for the purposes of Department employment and relative/non-relative placement screenings can vary by region and/or circuit.

(1) To ensure compliance with federal and state policies, each region is responsible for establishing a process for providing the FDLE/FBI notification and acknowledgement form (Attachments 1 and 2 to this chapter) to fingerprint applicants, to include obtaining the applicants signature and acknowledgement, prior to or at the time of the electronic submission of fingerprints.

(2) When applicable, regions will need to consider if electronic fingerprinting vendors are used in the fingerprint submission process and how the notification and acknowledgement procedure might work in this instance.

9-5. Documentation Procedure. Each region is responsible for establishing a process for storing acknowledgement forms signed and completed by fingerprint applicants.

a. When applicable, regions will need to consider how completed acknowledgement forms will be obtained from electronic fingerprinting vendors.

b. Each region's CJIS Circuit Point of Contact shall be responsible for providing completed acknowledgement forms when requested during FDLE and/or FBI audits.

9-6. Applicant's Right to Challenge a Criminal History Record.

a. Any applicant has the right to receive Florida and national criminal record information obtained via fingerprint submission. This applies only to results obtained for non-criminal justice purposes via fingerprint submission and does not apply to criminal justice name-based checks of

FCIC/NCIC. Name based results may not be released. Applicants requesting a copy of his/her Florida criminal history record shall be referred to FDLE and/or a copy of his/her national criminal history record to the FBI for assistance.

b. An applicant may conduct a personal review of his/her criminal history record as provided in s. [943.056](#), F.S., and Rule [11C-8.001](#), F.A.C., by contacting FDLE at (850) 410-7898. If an applicant believes the Florida criminal history record is in error, the applicant may contact FDLE to challenge the record at (850) 410-7898.

c. Applicants may receive any national criminal history record that pertains to him/her directly from the FBI pursuant to 28 CFR Sections 16.30-16.34. If a fingerprint applicant believes the national criminal history record is in error, he/she may contact the FBI at (304) 625-2000.



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Law Enforcement

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT

**NOTICE FOR APPLICANTS SUBMITTING FINGERPRINTS FOR A CRIMINAL HISTORY
RECORD CHECK**

NOTICE OF:

- **RETENTION OF FINGERPRINTS,**
- **PRIVACY POLICY, AND**
- **RIGHT TO CHALLENGE AN INCORRECT CRIMINAL HISTORY RECORD**

This notice is to inform you when you submit a set of fingerprints to the Florida Department of Law Enforcement (FDLE) for the purpose of conducting a search for any Florida and national criminal history records that may pertain to you, the results of the search are returned to the authorized agency ORI indicated in the transaction. By submitting fingerprints, you are authorizing the dissemination of any state and national criminal history record that may pertain to you to the agency from which you are seeking approval to be employed, licensed, or have access to their facility. The fingerprints submitted are retained by FDLE and the Federal Bureau of Investigation (FBI), and FDLE will notify the agency of any subsequent arrests.

Your Social Security Account Number (SSAN) is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 U.S.C. § 552a), FDLE is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. FDLE does not require a SSAN but it could cause a delay in processing your criminal record check.

Authorized agencies are allowed to release a copy of the state and national criminal record information to a person who requests a copy of his or her own record if the identification of the record was based on submission of the person's fingerprints. Therefore, if you wish to review your record, you may request a copy of your record from the screening agency. After you have reviewed the criminal history record, if you believe it is incomplete or inaccurate, you may conduct a personal review as provided in s. [943.056](#), F.S., and Rule [11C-8.001](#), F.A.C., by calling FDLE at (850) 410-7898. If you believe the national information is in error, you may contact the FBI at (304) 625-2000. You can receive any national criminal history record that may pertain to you directly from the FBI, pursuant to 28 CFR Sections 16.30-16.34. You have the right to a reasonable time to obtain a determination as to the validity of your challenge before a final decision is made about your status as an employee, volunteer, contractor, or subcontractor.

The FBI's Privacy Statement follows on the next page and contains additional information.

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PRIVACY ACT STATEMENT

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Public Law 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Social Security Account Number (SSAN): Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based record checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Additional Information: The requesting agency and/or the agency conducting the application investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any systems(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).

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APPLICANT NOTIFICATION AND ACKNOWLEDGEMENT

This form shall be completed and signed by every applicant for background screening purposes.

I hereby authorize the Florida Department of Law Enforcement (FDLE) to process a set of my fingerprints for the purpose of accessing and reviewing Florida and national criminal history records that may pertain to me to determine eligibility for employment.

I understand the following:

- My fingerprints may be retained at FDLE and the Federal Bureau of Investigation (FBI) for the purpose of providing notice of any subsequent arrests.
- FDLE will use local, state, and national law enforcement databases to conduct the criminal justice employment check.
- Upon request, FDLE may provide a copy of my criminal history record to me.
- A copy of any national criminal history record that may pertain to me can be obtained directly from the FBI.
- I am entitled to challenge the accuracy and completeness of any information contained in any such criminal history record pursuant to s. [943.056](#), F.S., and Title 28 CFR Sections 16.30-16.34.
- I may obtain a prompt determination as to the validity of my challenge before a final decision is made regarding my status as an employee, volunteer, contractor, or subcontractor if it is the sole factor precluding my employment or unescorted access to the secure facility.

Signature: _____

Date: _____

Printed Name: _____ Date of Birth: _____

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Chapter 10

CARETAKER SCREENING

10-1. Purpose. This operating procedure establishes standards and procedures for screening and re-screening of persons in positions designated by law to be screened as caretakers pursuant to Chapter [435](#), Florida Statutes (F.S.), Chapter [39](#), F.S., Chapter [110](#), F.S., Chapter [393](#), F.S., Chapter [394](#), F.S., Chapter [397](#), F.S., Chapter [402](#), F.S., Chapter [408](#), F.S., and Chapter [409](#), F.S.

10-2. Definitions. For the purposes of this operating procedure, the following definitions apply:

a. APD means the Agency for Persons with Disabilities.

b. Applicant, as used in this operating procedure, refers to the person being screened for employment, volunteer work, registration, or licensure.

c. Care Provider Background Screening Clearinghouse, known as “Clearinghouse” (CLH), is a web-based application and single data source that allows providers and state agencies to access Level 2 background screening information. The Clearinghouse is used to retrieve background screening results for persons screened for employment by or licensure of providers/facilities that provide services to children, the elderly, or disabled individuals. The Agency for Health Care Administration (AHCA) is charged with maintaining the Clearinghouse.

d. Caretaker Screening Information System (CSIS) refers to the statewide computer program utilized by the Department’s Background Screening Program and other background screening entities within the Department to track screenings for persons required to be screened pursuant to Chapter [435](#), Florida Statutes (F.S.), Chapter [39](#), F.S., Chapter [110](#), F.S., Chapter [393](#), F.S., Chapter [394](#), F.S., Chapter [397](#), F.S., Chapter [402](#), F.S., Chapter [408](#), F.S., and Chapter [409](#), F.S.. Only results received by the Background Screening Program are entered into the system. This system will become obsolete when the new workforce management system is completed.

e. Child Care refers to the provider/facility type that includes all owners, operators/directors, designated representatives, employees, or volunteers working with children’s programs. This does not include individuals who work in the facility after hours when children are not present or the parents/guardians of children in Head Start. The following also operate within the same statutes and are considered Child Care facilities:

(1) Family Day Care Homes include operators, substitutes, employees, and every household member over the age of 12 years old.

(2) Religious Exempt facilities include owners, operators/directors, employees, and volunteers who serve 10 hours or more per month. This does not include individuals who work in the facility after hours when children are not present.

(3) Enrichment Programs refer to individuals who provide language training, music instruction, educational instruction, and other experiences to specific children during a specific time that is not part of the regular program in a Child Care facility.

(4) After-school refers to a program that is operated and staffed directly by that school or through a formal agreement, such as a contract, between the school and a provider which names the school/school district as the responsible party for the operation of the program.

f. Child Welfare refers to the provider/facility type that includes residential Child-Caring Agencies, Child-Placing Agencies and Foster/Shelter-Group Homes (licensed out-of-home care).

Individuals screened includes directors and employees who have direct contact with clients and every household member age 12 years and older residing in the home.

g. Clerk of the Court Websites, as used in this operating procedure, refers to online public record systems, by county, that allow for the search of a specific court case or individual.

h. Comprehensive Case Information System (CCIS), as used in this operating procedure, refers to a web-based information system that allows Background Screening personnel access to view Florida criminal records in reference to an individual or specific case search.

i. Department means Department of Children and Families (DCF).

j. FBI means Federal Bureau of Investigation.

k. Florida Crime Information Center (FCIC) refers to the State of Florida criminal history results retained by the Florida Department of Law Enforcement. In reference to this operation, Background Screening personnel review the FCIC, as obtained through the Level 2 screening, to determine employment eligibility.

l. FDLE means Florida Department of Law Enforcement.

m. Florida Safe Families Network (FSFN) refers to is the Department's current Comprehensive Child Welfare Information System (CCWIS) used by child and adult protective investigations and services. The Background Screening Program uses this application to perform child abuse and neglect checks prior to an individual's eligibility determination.

n. Illegible/Rejected Prints refers to FBI criminal history results indicating that the applicants' fingerprints were illegible due to low quality of fingerprints or a scanning error. A Transaction Control Reference (TCR) number is provided by the FBI with the rejected fingerprint response, allowing the applicant to submit a second set of fingerprints within 180 days without incurring a second screening charge.

o. Initial Screening ("Primary Screening") refers to the first screening completed as an act of original employment, hiring, licensing or contracting, prior to starting employment, licensure, or contracting. An initial screening may also occur following a 90-day break in employment from a position for which an individual acquired an initial screening. An approved leave of absence does not constitute a break in employment.

(1) "Level 1 Screening" refers to a screening required by law for all individuals to complete the Level 1 screening requirements. These are name-based screenings requested through FDLE.

(a) Level 1 screenings completed pursuant to s. [435.03](#), F.S. are also granted for adult household members who have a physical, developmental, or cognitive disability that prevents that person from safely submitting fingerprints.

(b) All exempted individuals must submit a Request for Fingerprint Exemptions and be approved by the Department. Screening request are submitted manually or electronically.

(2) "Level 2 Screening" refers to a screening required by law for employment, licensure, volunteers, and registration as directed by Florida Statutes. A Level 2 screening differs from a Level 1 screening in that it is fingerprint based and a national criminal history check is required.

(3) A program may have additional screening requirements as identified in program specific statutes or rules (e.g., local criminal history, employment history, references, etc.).

p. Judicial Information System (JIS) is a web-based browser interface administered by the Office of State Court Administrators (OSCA) that provides the capability to query multiple Florida agency data sources. For the purposes of this operation, the Background Screening Program has access to JIS to view criminal history records for individuals being screened for employment or licensure.

q. Licensing Entity refers to the government entity responsible for issuance of a license.

r. Licensing Agency refers to the entity, government or non-government, responsible for training prospective licensees and submitting all necessary documentation to the Licensing Entity or Regulatory Authority.

(1) Some counties have their own “Local Licensing Agency”.

(2) These agencies serve to license local Child Care facilities and homes whose licensing standards meet or exceed state minimum standards within that specific county.

s. Live Scan is a device used for the electronic submission of fingerprints.

t. Medicaid Waiver System refers to a Medicaid program that provides home and community-based supports and services to eligible persons with developmental disabilities living at home or in a home-like setting. This system is maintained by APD under the authorization of the Agency for Healthcare Administration, Division of Medicaid.

u. National Crime Information Center (NCIC) refers to the national criminal history results from all states and territories retained by the FBI and/or other state repositories. In reference to this operating procedure, Background Screening personnel review the NCIC, as obtained through the Level 2 screening, to determine employment eligibility. Such records are confidential except to other governmental agencies under specific circumstance and must not be shared outside of the Department.

v. Name Check Only (NCO), or “Name Search” refers to a request sent to the FBI to conduct a search for criminal history results using only the person’s government-recognized name. For the purposes of this operating procedure, the Background Screening Program utilizes this type of search when an applicant’s Live Scan fingerprinting has resulted in two sets of illegible fingerprints.

w. National Fingerprint File (NFF) refers to the program in which duplicate criminal history record searches for states participating in the program are eliminated. Child Care providers/facilities can utilize the national criminal history results obtained through the Level 2 screening to satisfy the out-of-state criminal history requirement for applicants who have retained residency in a participating state within the past five years.

x. Originating Case Agency Number (OCA) refers to the identification number issued by the Background Screening Program through the CSIS program. It is the key to identifying the provider/agency requesting the background screening or for whom the background screening is being completed. This is a unique number generated by the CSIS system or converted from a legacy system. When registered with FDLE for Live Scan submissions, the OCA is prefaced with the two-digit district number and ends with a “Z” (e.g. 03011234Z). This differs from an ORI, which is assigned to qualified governmental entities by the FBI.

y. Originating Agency Identifier (ORI) refers to the nine-character identifier assigned by the FBI Criminal Justice Information Services (CJIS) staff to an agency which has met the established

qualifying criteria for ORI assignment. It identifies agencies in transactions on the NCIC system as well as for the submission of fingerprints:

(1) EDCFGN10Z – Child Placing and Residential Child Care Agencies, Chapter 39 Subcontracted Providers who Tutor and Mentor.

(2) EDCFGN10Z – Child Care Facilities, Family Day Care Homes, Religious Exempt, After School Programs, Child Enrichment Programs, Membership Organizations, Registered Family Day Care Homes, Private Charter Schools.

(3) EDCFGN10Z – Substance Abuse (Adults Only) determination based on MH criteria.

(4) EDCFMH20Z – Substance Abuse and Mental Health, Substance Abuse (Adults and Children), Mental Health Only, Chapter 39 Subcontracted Facilities who provide Psychological, Mental Health Counseling, Assessment, Therapy, and Behavioral Counseling.

(5) EDCFSC30Z – Summer Camp.

(6) EAPDGN10Z – APD General, Group Homes, Medicaid Wavier.

(7) EAPDFC20Z – APD CDC Plus Programs.

(8) EAPDDD30Z – APD Developmental Disability Centers.

(9) FL9XXX5Z – Caretaker State Employees.

z. Re-Arrest refers to an automatic notification received by the Clearinghouse through FDLE. This notification references the recent arrest of an applicant who is on a provider/facility's employee roster in CLH. The Background Screening Program utilizes this notification to determine necessary updates made to the applicant's eligibility within the Clearinghouse.

aa. Regulatory Authority refers to the government entity responsible for the oversight of a service provider/facility.

bb. Membership Organizations, as used in this operating procedure, refers to providers/facilities affiliated with national organizations which do not provide Child Care, whose primary purpose is providing activities that contribute to the development of minors in this state. These organizations charge only a nominal annual membership fee, are not for profit; and are certified by their national associations as following the association's minimum standards and procedures.

cc. Mental Health refers to the provider/facility type that includes all program directors, professional clinicians, employees, and volunteers working in public or private mental health programs and facilities who have direct contact with individuals held for examination or admitted for mental health treatment where the primary purpose of the facility is the treatment of minors.

dd. Peer Specialist refers to a person who:

(1) Has been in recovery from a substance-use disorder or mental illness for at least two years, who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery; or,

(2) Has at least two years of experience as a family member or caregiver of an individual who has a substance-use disorder or mental illness.

ee. Recovery Residence/Sober Home refers to a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

ff. Renewal, as used in this operating procedure, refers to the initiation within the Clearinghouse to renew an applicant's retained fingerprints. This must happen every five years to maintain eligibility for employment. The employer must request a Renewal prior to the retained print's expiration date.

gg. Re-screening refers to the initiation of a Level 2 screening for the continued employment, licensure, or contracted status of an applicant within the Clearinghouse. Everyone is required to be re-screened at five-year intervals following the completion of his or her initial screening. The five-year re-screen is also required for juveniles.

hh. Resubmission, as used in this operating procedure, refers to a type of screening initiated in the Clearinghouse that resubmits an applicant's retained fingerprints to generate new FDLE and FBI criminal history results. This is typically conducted when there has been a lapse in an applicant's employment for greater than 90 days.

ii. Sealed Record, as used in this operating procedure, refers to a record that has been sealed by the court, pursuant to s. [943.059](#), F.S., and is not available to the general public. It can be opened for inspection by the individual, his/her attorney, a criminal justice agency, and those entities set forth in s. [943.059\(4\)\(a\)5](#), F.S., for their perspective licensing and employment purposes. Sealed records are not public records and require special handling.

jj. Shelter Homes (Homeless) refers to services provided to individuals who lack a fixed, regular, and adequate nighttime residence or those living in shelters and temporary housing, or public and private places not designed for sleeping accommodations (e.g., on the street, in cars or parks, etc.).

kk. Volunteer refers to an unpaid helper who assists on an intermittent basis for less than 10 hours per month in most programs, or 40 hours per month in substance abuse programs. This individual is not considered a caretaker, provided the individual is under direct and constant supervision of/by persons who meet Level 2 screening requirements. At no time may any child or developmentally disabled adult be left alone with a volunteer unless the volunteer has met Level 2 screening requirements. Level 2 screening requirements are based on fingerprints submitted under a government issued Social Security Number or government issued Individual Taxpayer Identification Number (ITIN) for international volunteers

ll. Voluntary Pre-Kindergarten (VPK) refers to a pre-kindergarten program, established by the 2005 Legislature, with special funding for providers and available to all children within the state who will attain the age of 4 on or before September 1 of the school year, allowing them to attend either a private or public pre-kindergarten program. This group includes individuals already required to be screened as employees working in programs in private schools with children under the age of 5, facilities exempt from licensure, and licensed childcare centers.

10-3. Scope: This operating procedure applies to state employees, personnel in child care, contracted children's programs, mental health programs, substance abuse service provider personnel, those working with children and the developmentally disabled, child foster care, and residential child-caring and child-placing agencies, Shelter Homes, Recovery Residences, Membership Organizations, Summer Camps, and direct service providers of the Agency for Persons with Disabilities. All the above

are subject to Level 2 screening. This operating procedure also applies to volunteers in programs where volunteers are required to be screened.

10-4. Screening Procedure.

a. Establishing a Facility OCA (Identification Number).

(1) The Background Screening Program receives a request or inquiry for an OCA number from the licensing entity or regulatory authority. The Background Screening Program will assist individuals as needed in identifying the regulatory authority and the appropriate program office.

(2) If it is determined that the provider is eligible for a Facility OCA, a search of CSIS should be conducted to ensure the provider does not have an existing Facility OCA.

b. Submission of Information for Initial Screening.

(1) The applicant will complete a notarized Affidavit/Attestation of Good Moral Character attesting to their eligibility and submit it to his or her employer, licensing entity, or regulatory authority in accordance with program specific rules or policies.

(2) The employer, licensing entity, or regulatory authority must ensure that the applicant submits fingerprints and any additional required information necessary for the Background Screening Program to determine eligibility prior to employment or access/contact with any vulnerable person.

(3) The request for local criminal history is the responsibility of the licensing entity, regulatory authority, or provider, if applicable. The Background Screening Program may aid with interpretation as requested.

c. Completion of Background Screening for Child Welfare. All background screenings for child welfare purposes, including the placement of children, must be completed within 14 business days after receiving a person's criminal history results, unless additional information is required to complete the screening.

d. Evaluation of Criminal History Results and Determining Eligibility.

(1) Criminal History results received from FDLE and the FBI, as well as any action taken and/or final eligibility determinations made, are required to be recorded, updated, and maintained in the Clearinghouse and the CSIS database by the Background Screening Program.

(2) If the Department receives a result from FDLE and/or the FBI that identifies any criminal history, the Background Screening Program will determine eligibility pursuant to the applicable criteria required by law. It is the Background Screening Program's responsibility to verify eligibility based on resources such as CCIS, JIS, Clerk of the Court Websites, CSIS, and any available internal resources.

(3) If an applicant is determined "Eligible," the Background Screening Program will update the eligibility status in the Clearinghouse. This sends an automatic notification to the provider/facility notifying them that they may retrieve the applicant's results. This determination does not imply a recommendation for or against employment or licensure. Employment eligibility is made solely by the provider/facility.

(4) If the applicant is determined "Not Eligible" based on the criminal history results received, the Background Screening Program will notify the applicant in writing. If the applicant is

determined “Not Eligible” based on results from a Re-Arrest notification, the Background Screening Program will notify the applicant in writing and the licensing program by email.

(5) If additional information is received by the Background Screening Program, an electronic file in CSIS will be created. The electronic file will be retained by the Background Screening Program which can include, but is not limited to, the following:

- (a) Criminal history results;
- (b) Correspondence; and,
- (c) Other miscellaneous documents submitted by the applicant.

(6) If the applicant does not provide requested documentation within 30 calendar days of the date of the letter for additional information, the applicant will be determined “Not Eligible” until the documentation is received, and a determination is able to be made.

e. Confidentiality and Sharing of Screening Information.

(1) All information obtained through the screening process is exempt from public disclosure and may not be used for any purpose other than determining whether the person meets the minimum standards for the required screening process as outlined in s. [119.07\(1\)](#), F.S.

(2) The sharing of FDLE criminal history information obtained through the screening process is restricted to employment or licensure purposes.

(a) Sealed and expunged information is privileged information and cannot be shared with providers.

(b) Any national information obtained by the Background Screening Program cannot be shared with providers. This includes any national information obtained from FDLE.

(c) As per s. [435.10](#), F.S., any background screening information obtained by providers can be shared with other providers or the Department only for employment or licensure purposes.

f. Records Management. Records shall be retained in accordance with the Department’s Records Management Procedure.

Chapter 11

EXEMPTION FROM DISQUALIFICATION

11-1. Purpose. This chapter provides guidance to process exemption requests for persons disqualified pursuant to Chapter [435](#), Florida Statutes (F.S.).

11-2. Definitions. For the purposes of this operating procedure, the following definitions apply:

- a. "APD" means the Agency for Persons with Disabilities.
- b. "Applicant" means the person requesting an exemption from disqualification from employment, volunteering, registration, or licensure.
- c. "Care Provider Background Screening Clearinghouse", known as "Clearinghouse," is an information system that the Background Screening Program utilizes to document screenings completed by the Department for care providers.
- d. "Clear and Convincing Evidence" is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt. It means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince the Department representatives, without hesitancy, that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.
- e. "Department" means the Department of Children and Families.
- f. "FDLE" means the Florida Department of Law Enforcement.
- g. "FBI" means the Federal Bureau of Investigation.
- h. "Verifiable" means that the documentation contains enough information to contact the issuing person/entity should any reviewer wish to substantiate the document or obtain additional information.

11-3. Disqualifying Screenings Results.

a. The Department shall have Background Screening Coordinators that are responsible for reviewing and determining disqualifying criminal history pursuant to ss. [435.04](#) and [408.809](#), [39.0138](#), [402.302](#) and/or [393.0655](#), F.S.

(1) The Background Screening Coordinator will prepare a disqualification letter to the applicant detailing the criminal offense(s) that render him or her not eligible under s. [435.04](#), F.S.

(2) The Background Screening Coordinator will update the applicant profile to indicate a status of "Not Eligible" in the Clearinghouse as a notification to the employer.

b. If a disqualifying offense is identified for which an exemption is statutorily permitted, the Background Screening Coordinator will notify the applicant of the opportunity to request an exemption from disqualification. If the offense is permanently disqualifying, the Background Screening Coordinator will prepare a letter that notifies the applicant that he or she is not eligible to request an exemption from disqualification.

c. All letters sent to the applicant regarding permanent disqualification from employment, licensure, or registration must be sent by certified mail, return receipt requested with a notice that he or she has the right to appeal the Department's decision.

11-4. Eligibility to Request.

a. An applicant that has received a notice of disqualification or termination from employment based on criteria in ss. [435.03](#), [435.04](#), [408.809](#), or [393.0655](#), F.S., may apply for an exemption from such disqualification, in writing, if the offense is one for which an exemption may be granted pursuant to s. [435.07](#), F.S. The provisions of that section are to be strictly construed when considering a request for exemption from disqualification.

b. The three-year waiting period related to the commission of a felony begins after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition for the disqualifying felony.

c. For a disqualifying felony offense committed as a juvenile and for which the applicant was adjudicated delinquent, an exemption may not be granted until at least three years after the completion of confinement, supervision, or nonmonetary condition for the offense.

d. An individual who has committed a misdemeanor is eligible for consideration for an exemption after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary sanction for the disqualifying offense.

e. An individual that has committed a felony that has since been reclassified and is now considered to be a misdemeanor is eligible to apply for an exemption after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary sanction for the disqualifying offense.

f. An individual that was ordered to pay any amount for any fee, fine, fund, lien, civil judgment, application, costs of prosecution, trust, or restitution as part of the judgment and sentence for any disqualifying felony or misdemeanor must pay the court-ordered amount in full before he or she is eligible for the exemption.

g. A person employed or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under ss. [796.07\(2\)\(e\)](#), [810.02\(4\)](#), [812.014\(2\)\(c\)](#), [817.563](#), [831.01](#), [831.02](#), [893.13](#), or [893.147](#), F.S., or any related criminal attempt, solicitation or conspiracy under s. [777.04](#), F.S., may request an Exemption from Disqualification without applying the waiting period.

h. An individual designated as a sexual predator, career offender, or sexual offender is not eligible for an Exemption from Disqualification, unless the requirement to register as a sexual offender has been removed pursuant to s. [943.04354](#), F.S.

i. Any individual identified as Child Care Personnel who has a permanent disqualifying offense as outlined in s. [435.07\(4\)\(c\)](#), F.S., is not eligible for an Exemption from Disqualification.

j. If 5 years or more, or 3 years or more for any certified peer specialist or an individual seeking certification as a peer specialist, have elapsed since an applicant for an exemption from disqualification has completed or been lawfully released from confinement, supervision or a nonmonetary condition from the applicant's most recent disqualifying offense, the applicant may work with adults with substance use disorders or co-occurring disorder under the supervision of persons who meet all personnel requirements outlined in s. [397.4073](#), F.S., for up to 90 days while applying for the Exemption from Disqualification.

k. For Substance Abuse service providers that treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under ss. [796.07\(2\)\(e\)](#), [810.02\(4\)](#), [812.014\(2\)\(c\)](#), [817.563](#), [831.01](#), [831.02](#), [893.13](#), or [893.147](#), F.S., and any related criminal attempt, solicitation or conspiracy under s. [777.04](#), F.S., **shall** be exempted from disqualification for those offenses if:

(1) At least 5 years, or at least 3 years in the case of an individual seeking certification as a peer specialist under s. [397.417](#), F.S., have elapsed since the applicant requesting an exemption has completed or has been lawfully released from any confinement, supervision, or nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense; and,

(2) The applicant has not been arrested for **any** offense during the 5 years, or 3 years in the case of a peer specialist, before the request for exemption.

11-5. Exemption Request Requirements.

a. It is the responsibility of the applicant to present clear and convincing evidence that he or she should be exempted from disqualification.

b. In order to be considered for an exemption from disqualification, the applicant must meet the burden of clear and convincing evidence that he or she should be exempted from disqualification. Evidence that may support a decision to grant an exemption includes, but is not limited to:

(1) Personal reference(s). The person reviewing the request for exemption should consider whether the reference document includes a date, original signature, an indication of how the applicant is known to the writer, the time lapse from the date of the recommendation and the date of the application, and a telephone number for contact, if needed;

(2) Letters from employers or other professionals. The person reviewing the request for exemption should consider whether employer or professional reference letters are provided on business letterhead, are relevant, and provide an original signature, signature date, and telephone number for contact, if needed;

(3) Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program;

(4) Evidence of further education or training;

(5) Evidence of community involvement (examples include documentation of involvement in a civic organization, volunteer activities, church, etc.);

(6) Evidence of special awards or recognition;

(7) Evidence of military service, including whether such service is documented by Department of Defense Form 214; and,

(8) Parenting or other caregiver experiences.

c. Each person reviewing the request for exemption should carefully consider whether each evidentiary item provided in support of the request for exemption is verifiable.

d. Other factors to consider when determining whether to grant the exemption include, but are not limited to, the following:

(1) All available criminal history background information, including records, if available, from FDLE, the FBI, local police, or sheriff's offense incident reports and arrest affidavits, and pertinent court documents including case disposition and the applicant's plea. For disqualifying offenses, if the criminal history information is no longer available, the applicant will submit a notarized statement outlining the circumstances of the offense and any probation or other sanctions ordered and the status of the sanctions.

(2) Any information provided by the applicant regarding how he or she became involved in the incident and assurances that such an incident could not recur. Information may include:

(a) Documentation as to the status of any imposed conditions as a result of the applicant's offense or subsequent offenses;

(b) The length of time between the disqualifying event and the request for exemption, and any subsequent law violations, whether disqualifying or not;

(c) The severity of the harm or risk of harm to the victim or victims, including the degree of harm caused, any permanent or temporary injuries suffered, and restitution made as result of the applicant's actions; or,

(d) Any other history or circumstances indicating that employment can be continued without risk of harm.

(3) In the case of applicants seeking exemptions from disqualification from employment, licensure or registration for child welfare and child care programs, the person reviewing the request for exemption may include the use of any verified abuse reports where the applicant was identified as the person responsible or when the applicant is a subject in three or more abuse reports within a five-year period. For programs other than child welfare and childcare, verified reports can be used to evaluate the appropriateness of granting an exemption.

11-6. DCF Exemption Requests. If an applicant requests an exemption that is statutorily permitted, the Exemption Coordinator shall forward the following necessary forms to the applicant requesting an exemption review:

a. Request for Exemption form;

b. Exemption Application form;

c. Checklist form for materials needed for exemption consideration which will include directions for submitting the requested documents; and,

d. Employment History form.

11-7. Additional Required Documents.

a. Certified court dispositions for all disqualifying offenses and non-disqualifying offenses less than 10 years old.

b. Arrest report, charging affidavit, or citation for all disqualifying offenses and non-disqualifying offenses less than 10 years old.

c. Non-disqualifying offenses 10 years old or greater do not need court dispositions or arrest reports; however, they must be addressed by the applicant in the Exemption application.

d. Any required court disposition(s) or arrest documentation that is no longer available, a statement from the court of jurisdiction or law enforcement agency that the record does not exist or has been destroyed is acceptable.

11-8. Completion of Application.

a. After receipt of the exemption request package from the applicant, the Exemption Coordinator will, using due diligence, review the documents for completion. If information is missing, the Exemption Coordinator will notify the applicant in writing by mail and email.

b. The Exemption Coordinator will also search available data, including, but not limited to, a review of records from FDLE, the court system data base, the FBI, local police or sheriff's offense incident reports, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information provided by the applicant, will form the basis for a recommendation as to whether the exemption should be granted.

c. The Exemption Coordinator shall search the Caretaker Screening Information System (CSIS) to determine prior licensure or other caregiver positions and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all available evidence is gathered and the exemption packet is complete, the Exemption Coordinator shall forward the exemption file to the General Counsel's Office for review by the Agency Clerk or designee.

e. The exemption request file shall be reviewed by the General Counsel's office to determine legal sufficiency.

f. The exemption request file will be prepared for review by a panel to make an initial recommendation to grant or deny the exemption. The panel consists of the Background Screening Assistant Director, a representative from Human Resources, and a representative from the Substance Abuse and Mental Health Program Office.

g. After the panel makes a recommendation, the exemption summary and recommendation shall be prepared for the Chief of Staff or the Secretary's Designee for final determination.

h. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file by copy of the decision letter and completion of the Exemption Review Report Routing Sheet. The Routing Sheet will contain dates and signatures of the review. The Exemption Coordinators are responsible for maintaining the exemption files.

i. At no point during the evaluation process shall an evaluator rely on state or federal criminal history reports with an effective date that is more than 60 days old. If the most recent criminal history report, state or federal, is more than 60 days old at the time of review, new criminal history reports must be generated prior to the final decision being made.

j. After an exemption request decision is final, the Exemption Coordinator will provide a written response to the applicant. The letter will be prepared with the Secretary's signature.

(1) If the exemption is granted, the applicant shall be notified of the decision by regular mail. The Exemption Coordinator will update CSIS and the Clearinghouse. The facility or employer will obtain the updated eligibility through the Clearinghouse.

(2) If the request is denied, in whole or in part, notification of the decision shall be sent by certified mail, return receipt requested, to the applicant, addressed to the last known address.

k. Notification to the applicant of the Department's decision shall be made no later than 30 days following the receipt of the complete exemption request package from the applicant, all requested missing documentation from the applicant, or the new criminal history report(s) if required as provided in paragraph i above, whichever is the latest.

11-9. Exemption Transferability. If an individual who has been granted an exemption by APD or any other agency applies to the Department for an exemption, the Department shall consider the prior grant of an exemption but is not bound by any previous exemption pursuant to DCF's obligations to review disqualifications from employment.

11-10. Limitations of an Exemption. The Department has the authority to grant exemptions from disqualification to work solely in mental health treatment facilities, or in programs or facilities that treat co-occurring substance use and mental health disorders. No other limitations are permitted.

11-11. APD Exemption Requests.

a. If an applicant requests an exemption that is statutorily permitted, the Exemption Coordinator shall forward necessary forms to the applicant requesting an exemption review:

(1) APD Request for Exemption form;

(2) Checklist form for materials needed for exemption consideration which shall include directions for submitting the Exemption Request Package;

(3) Employment History form;

(4) APD Affidavit of Good Moral Character; and

(5) Certified Court Dispositions and Arrest Reports or Charging Affidavits for all disqualifying criminal offenses.

(6) Court Dispositions and Arrest Reports or Charging Affidavits for all offenses charged after the first disqualifying offense, however, they are not required to be certified.

(7) For criminal offenses prior to the first disqualifying offense, no documentation will be required.

b. After receipt of the exemption request package from the applicant, the Exemption Coordinator will, using due diligence, review the documents for completion. If information is missing, the Exemption Coordinator will notify the applicant in writing by mail or email. The Exemption Coordinator will also search available data, including, but not limited to, a review of records from FDLE, the court system data base, the FBI, local police or sheriff's offense incident reports, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information

provided by the applicant, will form the basis for a recommendation as to whether the exemption should be granted.

c. The Exemption Coordinator shall search CSIS to determine prior licensure or other caregiver positions and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all reasonable evidence is gathered during the exemption review, the Exemption Coordinator shall upload the file into CSIS and notify APD that the file is complete and ready for their review.

e. The Exemption Coordinator will notify the applicant when the exemption has been transferred to APD for determination.

f. The exemption request file shall be reviewed by APD's General Counsel's Office to determine legal sufficiency. Such review and determination shall not be done by the Department, unless otherwise agreed to by the Department and APD.

g. The Department's reviewers are not involved in the APD exemption request review process.

h. If APD determines that the exemption should not be granted, the Exemption Coordinator shall be informed, and the denial shall be communicated in writing to the applicant and the employer by APD.

i. If APD determines that the exemption should be granted, the applicant will be notified in writing by APD, and the Exemption Coordinator shall be informed, and the determination documentation returned to the Exemption Coordinator.

j. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file. The Exemption Coordinators are responsible for maintaining the exemption files.

11-12. Exemption Duration. If an exemption is granted, there shall be no limitation in the duration of the exemption except as provided by statute.

11-13. Subsequent Disqualification. If an employee for whom an exemption has been granted is subsequently arrested for or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any new disqualifying offense as provided in Chapters [393](#), [408](#), and [435](#), F.S., the employee is disqualified from employment. The employee must, if he or she wishes to again become employed and is otherwise eligible to seek an exemption, seek a new exemption from disqualification. The previously granted exemption must be identified as no longer being valid due to a subsequent disqualification in any Department maintained computer system that tracks exemptions or identifies persons with currently valid exemptions.

11-14. Security of Criminal History Records. All records of criminal background information gathered for the process of determining whether an exemption should be granted must be maintained in strict compliance with the Interagency Agreement between the Department and FDLE. This Agreement requires, among other things, that the records be maintained separately from any other departmental records, including personnel records, and that they be kept in a secure environment.

11-15. Right to Administrative Hearing (s. [120.57](#), F.S.). The denial letter will include standard language notifying the applicant of his or her right to an administrative hearing and the requirement to submit the request to the Agency Clerk within 21 days from the date of receipt of the denial letter.