

SAMPLE (*Revised 1/12/2016*)

PROVIDER CRIMINAL HISTORY BACKGROUND CHECK POLICY

It is the policy of PROVIDER to comply with the Criminal Background Check (CBC) regulations of the Justice Center. Any prospective employee, volunteer, intern, consultant or contractor who will have regular and substantial unsupervised or unrestricted contact with service recipients must have a CBC done, along with other required pre-employment checks, including but not limited to the Staff Exclusion List check.

I. CRIMINAL HISTORY REQUESTS and RESPONSES

- 1) Prospective employees, volunteers, interns, consultants or contractors (hereinafter “Applicant”) who may have regular and substantial contact with service recipients who PROVIDER is seriously considering hiring are required to have a Staff Exclusion List (SEL) check. Such checks may be done online via the Justice Center’s online SEL check by the Authorized Person (AP) designated by the PROVIDER.
- 2) Upon receiving results that an Applicant is not on the Staff Exclusion List, the AP registers any Applicant who will have regular and substantial unrestricted or unsupervised physical contact with service recipient for fingerprinting either on-line at www.identogo.com or by calling L-1 Enrollment Services at (877) 472-6915.
- 3) The AP will obtain and maintain the Applicant Consent for Fingerprinting form signed by the Applicant. This form is found on the Forms tab on the homepage of the Justice Center website. This information will be kept confidential within the guidelines of 14 NYCRR Part 701.
- 4) At the time of obtaining the signed Applicant Consent for Fingerprinting form, the AP shall give the Applicant the Personal Criminal History Information Review form found on the Forms tab on the homepage of the Justice Center website.
- 5) Upon receipt of the Justice Center’s determination, the AP is required to update the employment status in the Justice Center’s CBC system in accordance with the Justice Center determination and/or the PROVIDER’S hiring decision.
- 6) If an Applicant is denied employment by the Justice Center, the AP will notify the Applicant that the criminal history record is the basis for the denial. If the Applicant has a question concerning the accuracy of the criminal history, Applicant should be referred to the Personal Criminal History Information Review form initially provided to the Applicant, pursuant to # 4 above.
- 7) The AP is responsible for updating the employment status of any employee/volunteer in the Justice Center’s CBC system within 14 days of the employment status change.

II. TEMPORARY APPROVAL

- 1) A PROVIDER may temporarily approve an Applicant pending the results of the Justice

Center's CBC determination. In order to protect the health, safety, and welfare of service recipients, such temporarily approved Applicant shall not be permitted to have unsupervised or unrestricted physical contact with service recipients during such time of temporary approval.

This means that such temporarily approved Applicant shall not have in-person, face-to-face communication or interaction with service recipients, or the reasonable opportunity for such communication or interaction, while not at all times in the reasonable physical proximity of another person who has management or oversight authority over such person or has had at least six months of experience as an employee of the PROVIDER and has been deemed by such PROVIDER to be qualified to provide adequate oversight of temporarily approved Applicant.

2) If the temporarily approved Applicant is to be assigned personal care activities which require privacy for service recipients (e.g., bathing, dressing and toileting), the individual designated to supervise such temporarily approved Applicant will always be present in the same room at all times while such personal care activities are occurring.

3) If PROVIDER knows pursuant to the employment application process or is informed by the Justice Center prior to issuance of its determination, that an Applicant has an existing conviction or pending charge for any of the following offenses, the PROVIDER shall not permit the Applicant to be temporarily approved:

- (A) a felony sex offense;
- (B) a felony within the past ten years involving violence;
- (C) abandoning a child and/or endangering the welfare of an incompetent, physically disabled or vulnerable elderly person pursuant to sections 260.00, 260.25, 260.32 or 260.34 of the Penal Law; or
- (D) any comparable offense in any other jurisdiction.

4) If PROVIDER knows that the temporarily approved Applicant has a pending felony charge other than as specified above or any pending misdemeanor charge, PROVIDER will document its reasons for granting temporary approval, including an explanation as to why such action will not place service recipients at risk of harm.

III. SUBSEQUENT ARREST NOTIFICATION

1) The AP will receive any subsequent arrest notification of any individual fingerprinted by the PROVIDER who remains in active or applied employment status in the Justice Center's CBC system. The AP will perform a safety assessment by interviewing the individual and/or his/her supervisor and determine whether the individual is a possible danger to the service recipients. If a possible danger exists, action will be taken to change the job duties or suspend the individual.

2) The individual should advise the AP of the final outcome of the court proceedings. Once a final court determination is made, a final decision regarding employment and/or conditions of employment will follow. The Safety Assessment will be documented and kept in the employee's personnel file.

IV. RECORD KEEPING RESPONSIBILITIES

1) Roster/Provider Compliance Report

The Justice Center's CBC system will have available to PROVIDER a Provider Compliance Report which maintains a list of the names and employment status of all subject individuals for whom a request for a criminal history information check was submitted to the Justice Center. The report can be generated by clicking on the Reports tab in the Justice Center's CBC system.

2) Applicant Records

- (A) For each Applicant for whom a CBC was performed, PROVIDER shall maintain the Applicant Consent for Fingerprinting form signed by the Applicant.
- (B) The determination of the Justice Center and the Employment Status of the Applicant, updated by the PROVIDER, are available in the Justice Center's CBC system.
- (C) The PROVIDER will maintain CBC-related records in a manner that maintains the security of the information contained therein, but which also enables the State agency with licensing and/or monitoring jurisdiction over the PROVIDER to obtain immediate and unrestricted access to such information upon its request, for the purpose of monitoring compliance with its regulations.

3) Status Change

- (A) The AP will update all employment status changes, such as hiring, terminations, decisions not to hire, or withdrawal from consideration in the Justice Center's CBC system within 14 days of the employment status change for all those subject individuals required to undergo a CBC with the Justice Center.
- (B) Any employee, volunteer, intern, or contractor who changes position from one that does not require fingerprinting to one that does require fingerprinting, will have to undergo a CBC with the Justice Center before such position change can be approved. In addition, if a position change occurs from one that required fingerprinting to one that does not require fingerprinting, the Justice Center's CBC system must be updated to indicate that such person is no longer hired as a subject individual.

4) Retention/Disposal of Information

- (A) All CBC-related required documentation must be stored securely by the AP. Files of those terminated are to be kept for 6 years past the termination date.
- (B) Disposal of criminal history information and/or any other CBC-related information obtained about a subject individual and the Justice Center's determinations shall be performed in a manner that ensures the confidentiality of the information.