

## Staff Exclusion List Checks for Prospective Staff Hired on or after June 30, 2013

The chart below sets forth the entities that must request a check of the Staff Exclusion List (SEL) before determining whether to hire or otherwise allow “any person” with the potential to have regular and substantial contact with a person receiving services. “Any person” can include an employee, administrator, consultant, intern, volunteer, or contractor.

If the applicant is **not** on the SEL, a criminal background check (CBC), if required, and an inquiry of the Statewide Central Register of Child Abuse and Maltreatment (SCR), if required, must be conducted.

Entities that must request an SEL check	SEL check	CBC <sup>1</sup> by Justice Center	SCR check <sup>2</sup>	If on SEL - mandatory no hire	If on SEL - discretion to hire <sup>3</sup>
<b>1) Facility/Provider Agency</b> (defined Social Services Law (SSL) § 488[4]):					
a) Facility or program operated, licensed or certified by OMH, <sup>4</sup> OPWDD and OASAS	X	X OASAS performs CBCs for providers under their jurisdiction	X	X	
b) Facility or program operated by OCFS for youth in OCFS custody; residential programs for children licensed or certified by OCFS <sup>5</sup> ; including family type home for adults certified by OCFS	X	X No CBC for family type home for adults	X	X	
c) DOH adult care facilities (80+ beds with at least 25% residents with serious mental illness)	X		X	X	
d) Camps for children with developmental disabilities regulated by DOH	X		X	X	
e) State operated schools for Deaf/Blind,	X		X	X	

<sup>1</sup>The standard for conducting a CBC is regular and substantial unsupervised or unrestricted physical contact with persons receiving services as provided for in Mental Hygiene Law (MHL) §§ 16.33, 19.20, 19.20-a, 31.35 and SSL § 378-a, provided, however, that SSL § 378-a also requires that every employee of a residential program for foster children undergo a CBC.

<sup>2</sup> If an applicant has a finding of abuse or maltreatment on the SCR, the provider still has discretion to hire.

<sup>3</sup> Discretion in determining whether to hire is to be made in accordance with guidelines developed by OCFS for evaluating the subject of an indicated report of child abuse or maltreatment.

<sup>4</sup> Except for MHL Art 10 secure treatment facilities and programs operated by OMH located in DOCCS’ facilities.

<sup>5</sup> Except for foster family homes and residential programs for victims of domestic violence.

	<b>SEL check</b>	<b>CBC by Justice Center</b>	<b>SCR check</b>	<b>If on SEL - mandatory no hire</b>	<b>If on SEL-discretion to hire</b>
f) State supported schools with a residential component,	X		X		X
g) Special act school districts;	X		X		X
h) In-state private special education schools with residential programs	X		X		X
<b>2) Other providers of services in programs licensed or certified by a State Oversight Agency (SOA)</b>	X	X for certain OMH and OPWDD providers	X	X	
<b>3) Other providers of services in programs funded by SOA</b>	X	X for certain OMH OPWDD providers			X
<b>4) Provider or provider agencies defined in SSL § 424-a(3) that are not otherwise covered by 1 or 2 above, such as<sup>6</sup>:</b>					
a) Authorized agencies defined SSL § 371(10)	X		X		X
b) OCFS	X		X		X
c) Licensed child day care centers	X		X		X
d) Early intervention service	X		X		X
e) Approved 4410 providers (preschool special education) Municipalities that contract for related services for preschool children with disabilities	X		X		X
f) School-age child care programs	X		X		X
g) Publicly-funded emergency shelters for families with children	X		X		X
h) Health homes or subcontractors of such health homes providing services to individuals under the age of 21 except for those entities describe in (i) below or with a diagnosis of a developmental disability	X		X		X

<sup>6</sup> If a provider agency included in SSL § 424-a(3) is otherwise covered in category 1 or 2 on this chart, it is not included under category 4 of this chart.

	<b>SEL check</b>	<b>CBC by Justice Center</b>	<b>SCR check</b>	<b>If on SEL - mandatory no hire</b>	<b>If on SEL- discretion to hire</b>
i) health homes or subcontractors of such health homes providing services to those enrolled pursuant to a diagnosis of a developmental disability as defined in MHL § 1.03(22); or any entity that provides home and community-based services to enrollees who are under the age of 21 under a demonstration program pursuant to federal Social Security Act § 1115	X	X	X	X	
<b>5) Licensing Agency defined in SSL § 424-a(4) not otherwise covered in 1 or 2 above, such as<sup>7</sup>:</b>					
a) an authorized agency defined in SSL Law § 371(10) which:					
<i>i) has received an application to become an adoptive parent; or</i>	X		X		X
<i>ii) has received an application for a certificate or license to receive, board of keep any child; or</i>	X		X		X
<i>iii) has received an application from a relative of parent or step-parent; or the child's legal guardian for approval to receive, board or keep such child</i>	X		X		X
b) A state or local government agency that receives an application to provide:					
<i>i) child day care services in a child day care center, or</i>	X		X		X
<i>ii) school age child care program, or</i>	X		X		X
<i>iii) family day care home or group family day care home</i>	X		X		X
c) NYC DOHMH when it receives an application for certificate of approval to provide child day care services in a child day care center	X		X		X

<sup>7</sup> If a licensing agency included in SSL § 424-a(4) is otherwise covered in category 1 or 2 on this chart, it is not included under category 5 of this chart.

	<b>SEL check</b>	<b>CBC by Justice Center</b>	<b>SCR check</b>	<b>If on SEL - mandatory no hire</b>	<b>If on SEL- discretion to hire</b>
d) OMH or OPWDD when it receives an application for an operating certificate to operate a family care home	X	X	X	X	
e) A state or local government official who receives an application for a permit to operate a camp which is subject to Public Health Law Article 13-B, or by designation, the camp operator	X		X	X	
f) OCFS when it has received an application for a certificate to receive, board or keep any child at a foster home (Executive Law Articles 19G and H)	X		X	X	