# Administrative Policies and Procedures: 4.1

## Subject: Employee Background Checks

### Authority:

### Standards:
COA: PA HR 3.03, PA-ASE 6.03, PA-RPM 2.01, PREA: 115-317

### Application:
All Department of Children’s Services; Contract Agency Employees

## Policy Statement:

All Department of Children’s Services (DCS) employees and contracted agencies, who may or may not have direct contact with children but work with sensitive or confidential information must be free from a criminal or abuse history that could pose a safety risk to children.

## Purpose:

To ensure that background checks are conducted on all DCS/Contract Agency employees that may or may not have direct contact with children/youth, or who work with sensitive or confidential information. A determination must be made that no criminal or abuse history exists that could pose a safety risk to children.

## Procedures:

### A. Background checks

1. **DCS/Contract Agency applicant or transfer** - After DCS or the contract agency offers a conditional offer of employment, the applicant or transferring individual must submit to a complete background check including any waiver granted where applicable. The background check will be completed **prior to hire** by the appropriate designated DCS/Contract Agency staff and results maintained in the official personnel file.

2. Entities or individuals entering a contract with DCS or a sub-contract with a covered DCS contract agency shall be subject to this policy only after conditional contract approval.

3. All DCS/Contract Agency employees who may or may not have direct contact with children, or who work with sensitive or confidential information must complete form **CS-0559, Authorization of Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children’s Services and Notification of Release**, or agency equivalent.
4. The following documentation and background checks comprise a complete background check:

a) Criminal records check from local law enforcement records or county court records for all residences of employee within the immediate six (6) months preceding application for employment.

b) TBI/FBI fingerprint check.

c) For a detailed description regarding the fingerprint check, refer to the Protocol for Fingerprint Process and Analysis.

NOTE: Paid interns from out of state who have direct contact with children/youth may begin employment without the completion of a fingerprint check as long as they have no unsupervised contact with children until fingerprint results are obtained. Fingerprinting must be arranged and results received within fifteen (15) calendar days from the date of hire. Appropriate action will be taken as outlined in this policy if fingerprint results do not comply with policy requirements.

d) Driving records check to include current valid driver license and a check of moving violations records.

e) National Sexual Offender Registry Clearance.

f) Tennessee Department of Health Abuse Registry Clearance.

5. All DCS/Contract Agency employees who may or may not have direct contact with children, or who work with sensitive or confidential information must also be cleared through a DCS database records check of TFACTS and the Social Services Management System (SSMS). Refer to Conducting Social Services Management System Checks in TFACTS for more information. Once the above background checks (a. through f.) are complete and the applicant is still eligible for employment, the DCS Database Search can be initiated.

a) Requests should be submitted on form CS-0741, Database Search Results to: EI-DCS-Provider.Backgroundcheck@tn.gov.

b) Specific information related to CPS findings and records involving an applicant must be maintained in the confidential section of the official personnel file.

6. Results from the completed background checks must be documented on form CS-0687, Background Check History and IV-E Eligibility Checklist and filed with supporting results documentation attached in the employee’s official personnel file. Contract Agencies may substitute an equivalent form to CS-0687, Background Check History and IV-E Eligibility Checklist provided that the content of the substituted form is the same.
**B. Annual background checks**

1. DCS/Contract Agencies will conduct annual background checks on all employees who may or may not have direct contact with children or employees who work with sensitive or confidential information. The following is a detailed listing of the documentation and background checks that must be completed annually with results maintained in the employee’s personnel file:

   a) Driving records including validation of current driver license and a check of moving violations records.

   b) An **Internet Records Clearance** The internet records clearance involves a background check of the following:

      - **Drug Offender Registry Clearance**
      - **TN Felony Offender Database Clearance**
      - **National Sexual Offender Registry Clearance**
      - **Department of Health Abuse Registry Clearance**

2. Results from all annual background checks must be documented on DCS form **CS-0687, Background Check History and IV-E Eligibility Checklist or equivalent form** in the same manner as set out in **Section A.6** of this policy.

3. Any issues discovered in the annual check will be addressed on a case-by-case basis and may result in disciplinary action up to and including termination from employment with DCS/Contract Agencies.

**C. Approval or Denial of employment based on background check**

1. All background checks will be completed in accordance with policy to ensure timely assessment of applicant employment. However, to allow for human error, it will be permissible to rectify such errors noted on the local background check, DCS Database Search and the Internet Clearance checks (i.e. incorrect name spelling, DOB, SSN). Newly conducted checks that show no results will be considered compliant. Checks that show convictions within the findings will be deemed non-compliant.

2. If an employee has a period of unemployment with DCS or Contract Agency of thirty (30) days or less AND the fingerprint results are less than one year old, the original fingerprint check results will be considered valid.

   **Note:** Any Contract Agency accessing an internet service to complete the required background checks for employees is responsible for ensuring that the internet services being utilized accesses, at a minimum, the internet searches listed above. Doing so will preclude the need for the contract agency to complete each individual internet search. Failure to ensure and verify that the chosen internet service uses the exact sites listed above for each check, will result in that check being considered invalid and cause the employee check to be non-compliant.
3. No applicant will be hired or promoted who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 U.S.C.§ 1997.

4. Consistent with Federal, State, and local law, DCS/Contract Agencies will make every effort to contact all prior institutional/facility employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. In addition, incidents of sexual harassment will be considered when determining whether to hire or promote employees.

5. DCS/Contract Agency employees must report any CPS substantiation, arrest, indictment, or criminal conviction of any criminal offense (either misdemeanor or felony). Refer to DCS Policy 4.9, Employee Disciplinary Actions and Mediation Process for additional information on reporting of arrests, indictments, or criminal convictions of any criminal offense by DCS/Contract Agency employees.

D. Criminal history waiver

In situations where an applicant for employment with DCS/Contract Agency is determined to have a criminal conviction that meets the criteria in the Waiver Tip Sheet, a criminal history waiver must be completed. In order for employment to be approved, the criminal history waiver must be approved as outlined in this policy and according to the instructions for form CS-0921, Waiver of Criminal, PATH Training Modifications, Non-Safety Issues, CPS Substantiations and Educational Requirements prior to hire. Documentation of the criminal history waiver request and approval must be maintained in the employee’s personnel file.

E. Tracking and monitoring of contract agency staff who have direct contact with children

The DCS Office of Child Program, Division of Child Permanency will track and monitor IV-E safety requirements regarding contract agency employees who have direct contact with children in congregate care or facility settings. Review Protocol: Facility and Group Care IV-E Compliance Protocol.

Forms:

- CS-0559, Authorization of Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children’s Services and Notification of Release
- CS-0687, Background Check History and IV-E Eligibility Checklist
- CS-0741, Database Search Results
- CS-0921, Waiver of Criminal, PATH Training Modifications, Non-Safety Issues, CPS Substantiations and Educational Requirements
Subject: Employee Background Checks

Collateral Documents:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Conditional Offer of Employment:</td>
<td>For this policy, a conditional offer of employment means that prospective employees will not be hired until all background checks are completed or a criminal history waiver is approved.</td>
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<tr>
<td>Primary Contractor:</td>
<td>A primary contractor is an entity contracting directly with the Department of Children’s Services. Notwithstanding any use of an approved sub-contractor, the primary contractor shall be ultimately responsible for all services provided.</td>
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<td>Sub-contractor:</td>
<td>A sub-contractor is an individual or entity that provides services to children/families in Tennessee on behalf of a primary contractor. Sub-contracting individuals or entities are required to maintain all current and necessary licensing and credentials in accordance with DCS policy.</td>
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<td>Direct Contact:</td>
<td>Circumstances in which an individual, as part of his or her regular job duties, has face-to-face interaction with or unsupervised access to children.</td>
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