

OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES



Mitchell E. Daniels, Jr., *Governor* • Paula Parker-Sawyers, *Executive Director*

COMMUNICATION 2007-P-06

TO: AmeriCorps*State Sub-Grantee Organizations
FROM: Paula Parker-Sawyers
CC: Agency Operations Manual (2007)
DATE: November 8, 2007
SUBJECT: **AmeriCorps*State Criminal History Check**

PURPOSE

To establish a policy for conducting National Service Criminal History Checks on individuals serving in or funded by the AmeriCorps*State program.

EFFECTIVE DATE

November 23, 2007

SCOPE

This communication applies to all AmeriCorps*State sub-grantee organizations.

RECESSION

This communication rescinds OFBCI Policy 2006-P-09 dated August 17, 2006.

STATEMENT OF POLICY

A. *Definitions.*

Consecutive term of service means that there is no intervening break in service of more than thirty (30) days in which the applicant did not serve within the same AmeriCorps*State program.

Employee refers to an individual or individuals paid from AmeriCorps*State grant funds.

Member means an individual:

- (1) Who is enrolled in an approved national service position;
- (2) Who is a U.S. citizen, U.S. national or lawful permanent resident alien of the United States

302 West Washington Street, Room E012
Indiana Government Center, South Complex
Indianapolis, Indiana 46204
Tel: (317) 233-4273
Fax: (317) 233-5660
www.IN.gov/ofbci

- (3) Who is at least seventeen (17) years of age at the commencement of service unless the member is out of school and enrolled
 - a. in a full-time, year-round youth corps Program or full-time summer Program as defined in the Act (42 U.S.C. 12572 (a)(2)), in which case he or she must be between the ages of sixteen (16) and twenty-five (25), inclusive, or
 - b. in a Program for economically disadvantaged youth as defined in the Act (42 U.S.C. 12572 (a)(9)), in which case he or she must be between the ages of sixteen (16) and twenty-four (24), inclusive, and
 - c. Has a high school diploma or an equivalency certificate (or agrees to obtain a high school diploma or its equivalent before using an education award) and who has not dropped out of elementary or secondary schools in order to enroll as an AmeriCorps member (unless enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 484 of the Higher Education Act of 1965, 20 U.S.C. 1091), or who has been determined through an independent assessment conducted by the sub-grantee organization to be incapable of obtaining a high school diploma or its equivalent.

National Service Criminal History Check consists of a check of the Department of Justice National Sex Offender Public Registry and a criminal history search (by name or fingerprint) of the State criminal registry for Indiana and the State in which the applicant is residing at the time of application for all applicants applying for a position as an AmeriCorps*State member or employee.

Sub-grantee means the host organization with legal and fiscal responsibilities for an AmeriCorps*State formula or competitive program and its members.

Vulnerable population means children (individuals who are seventeen (17) years of age and under), persons age sixty (60) and older, and individuals with disabilities.

B. *Mandatory Eligibility.*

- (1) The sub-grantee organization shall conduct a Department of Justice National Sex Offender Public Registry (NSOPR) check at <http://www.nsopr.gov> on all applicants applying for a position as an AmeriCorps*State member or employee.
- (2) The sub-grantee organization shall conduct a criminal history search (by name or fingerprint) of the State criminal registry for Indiana and the State in which the applicant is residing at the time of application for all applicants applying for a position as an AmeriCorps*State member or employee funded by the AmeriCorps*State grant. An FBI fingerprint check or a comprehensive national name-based check that, at a minimum, includes a search of the State criminal registry in Indiana, as well as the State in which the applicant resides at the time of application, may be used in lieu of a search of the State criminal registry.
- (3) The sub-grantee organization may not require the applicant to obtain and/or pay for a State criminal registry search as a condition of service or employment.

C. *Selection Criteria and Disqualification.*

- (1) Anyone appearing on the NSOPR is automatically disqualified from serving with or being employed by the AmeriCorps*State program.
- (2) An applicant that refuses to consent to the State criminal registry check, or who makes a false statement in connection with the inquiry concerning the individual's criminal history, may not serve with or be employed by the AmeriCorps*State program.

- (3) It shall be the responsibility of the sub-grantee organization to develop additional criteria for the selection of members or employment of grant-funded staff with a criminal history.
- (4) Applicants must be given the opportunity to correct any inaccurate information resulting from the check.

D. Policies and Procedures.

- (1) The sub-grantee organization must establish a policy governing the implementation of National Service Criminal History Checks. The policy must include, at a minimum:
 - a. Staff review of and access to National Service Criminal History Check results (e.g. who, when, how)
 - b. Selection criteria for members or employees with a criminal history, including disqualification criteria
 - c. Whether or not members or employees awaiting results of the State criminal registry check(s) are permitted to start with the program:
 - i. If a member or employee is permitted to begin service or employment prior to review of the results of the State criminal registry check(s), the program must have a supervisory plan to ensure that the individual, for who the results of the required State criminal history check are pending, is not permitted to have access to vulnerable populations without being accompanied by an authorized sub-grantee representative who has been previously cleared for such access.
- (2) The sub-grantee organization must establish documented procedures to conduct the required National Service Criminal History Check. The procedures must include:
 - a. Verification of the applicant's identity by examining a government-issued photo identification card
 - b. Prior written authorization by the applicant authorizing the sub-grantee organization to conduct State criminal history checks (not required for NSOPR checks), as well as authorization to share the results of that check within the sub-grantee organization, as appropriate
 - c. Documentation of the applicant's understanding that selection is contingent upon the organization's review of the criminal history, if any
 - d. An opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from a position
 - e. Safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant, and
 - f. Ensuring that an individual, for who the results of the required State criminal history check are pending, is not permitted to have access to vulnerable populations without being accompanied by an authorized sub-grantee representative who has been previously cleared for such access.

E. Documentation.

- (1) The sub-grantee organization shall maintain documentation that demonstrates that the organization followed its established policies and procedures governing the National Service Criminal History Check. Such documentation shall demonstrate that, in selecting or placing an individual, the sub-grantee organization reviewed and considered the National Service Criminal History Check results.

- (2) Results of the National Service Criminal History Check must be maintained in a secure location only accessible by individuals who have an official need to review the information to interpret the results. Results may not be kept with other documentation in the member or employee files.

F. *Timing.*

- (1) For all AmeriCorps*State members serving and staff employed with the sub-grantee organization as of the effective date of this policy, the sub-grantee organization must complete the NSOPR check in accordance with B(1) on all members and employees within 90 days from the effective date of this policy. If a member serving on the effective date of this policy desires to serve a second term with a different or same program, the State criminal registry check will be required.
- (2) The sub-grantee organization must conduct a NSOPR check in accordance with B(1) and a State criminal history check in accordance with B(2) the first time an individual applies to the sub-grantee's AmeriCorps*State program after the effective date of this policy. A second National Service Criminal History Check is not required for an individual who is serving a consecutive term of service within the same program. If the applicant is not enrolled or hired after the first National Service Criminal History Check and applies again to the same program, a second check is required. If an individual applies for a second term of service with a different program, or a later term within the same program, a new National Service Criminal History Check is required.
- (3) For sub-grantee organizations funded as of the effective date of this policy, the sub-grantee organization must submit the policy noted in D(1) to the Office of Faith-Based and Community Initiatives for approval no later than January 7, 2008.

G. *Compliance with Applicable Laws.*

- (1) The sub-grantee shall comply with all federal, state, and local laws relative to the conduct of criminal history checks, the documentation of such checks, and selection and employment of individuals with a history of criminal offenses.

REFERENCES AND PRECEDENCE

A. *References.*

Code of Federal Regulations
45 CFR §§ 2510, 2522, 2540, 2551, and 2552
AmeriCorps Special Provisions

B. *Precedence.*

Should there be any inconsistency between the United States and Indiana Codes, Indiana Executive Orders, U.S. and Indiana Administrative Codes, and this internal policy the order of precedence that will prevail is (1) United States and Indiana Codes; (2) AmeriCorps General Provisions; (3) AmeriCorps Special Provisions; (4) this internal policy.

INTERPRETATION

The OFBCI executive director shall have the sole authority to interpret the provisions set forth in this policy.

APPROVAL:



Paula Parker-Sawyers, Executive Director

November 8, 2007

Date