



April 10, 2020

### Interim Guidance on Background Check Requirements for Staff of OCFS Licensed or Certified Residential Programs for Youth During COVID-19 Emergency

This guidance is in response to increasing concerns regarding staffing shortages related to COVID-19, and pursuant to Executive Order No. 202.13, issued March 29, 2020. The background check process required of residential programs for youth licensed or certified by the New York State Office of Children and Family Services (OCFS), has been temporarily modified. This guidance is for all OCFS licensed and certified residential programs for youth, whose staff are subject to criminal background checks conducted by the Justice Center for the Protection of People with Special Needs. The interim process, described in this document, is designed to enable such programs to onboard new staff members more quickly to maintain critical staffing ratios, while ensuring the safety of the individuals that they serve. Should a program wish to follow the existing onboarding background check process, they may continue to do so. The option detailed here is only available to residential programs youth licensed or certified by OCFS and excludes foster family boarding homes and domestic violence shelters. The following guidance is in effect for the duration of the COVID-19 public health emergency but is subject to revocation, without notice. **Nothing herein shall preclude any provider from requiring all regularly required pre-employment checks of any prospective staff members.**

#### A. Staff Members Currently Employed by an OCFS Licensed or Certified Program

An OCFS licensed or certified program may hire a staff member who is currently employed by another program licensed or certified by OCFS, without the need to perform a new Criminal Background Check (CBC), Staff Exclusion List (SEL) check, or Statewide Central Register (SCR) check in accordance with the following:

1. The hiring program will submit a Justice Center Executive Order 202.13 – Criminal Background Check Request Form to OCFS at [ocfs.sm.cbc@ocfs.ny.gov](mailto:ocfs.sm.cbc@ocfs.ny.gov), including:
  - a. The prospective employee's name;
  - b. Date of birth;
  - c. Social security number; and
  - d. If known, the name of the program for which the prospective employee was fingerprinted, and approximate date of such fingerprinting.
2. OCFS will transmit the request to the Justice Center's Criminal Background Check Unit;
3. The Justice Center will confirm whether the prospective employee has:
  - a. Previously completed a CBC through the Justice Center; and
  - b. Is currently employed by a program licensed or certified by OCFS.
4. The Justice Center will transmit approval to OCFS, or a request for additional information, within one business day of receiving the request; and
5. OCFS will contact the hiring program to confirm that program may hire the prospective employee. Prospective employees who are not confirmed by the Justice Center, pursuant with this section, will need to undergo full background check procedures consistent with Section (C) below.
  - a. All regularly required pre-employment checks, including fingerprinting, must ultimately be completed for this individual, as soon as practicable.
  - b. Any staff who has not completed all required background checks and who has potential for direct contact with youth, must be supervised by an individual who

has satisfactorily completed the background check process. Supervised, in this document, means line of sight supervision.

Once this process is complete, the staff member may be onboarded at the discretion of the program. As stated above, a program may choose to use the current background check process instead of the interim process. However, staff onboarded using the interim guidance who have the potential for direct contact with youth may not be left unsupervised with any child in the program.

**B. Staff Members Currently Employed by a Program of Another State Oversight Agency**

A program licensed or certified by OCFS seeking to hire a staff member currently employed by the Office of Mental Health (OMH), a program licensed, funded, or approved by OMH, a program certified, funded or authorized by the Office of Addiction Services and Supports (OASAS), the Office for People with Developmental Disabilities (OPWDD), or a provider approved by OPWDD, must follow the steps outlined above in paragraph (A).

**C. Prospective Staff Members with No CBC via the Justice Center**

A program seeking to hire a prospective staff member who does not currently hold a position with a program licensed or certified by OCFS, as described in (A), or with a program listed in paragraph (B), and/or does not have a criminal background check on record with the Justice Center, is required to submit the CBC, SEL check, and SCR check for that individual.

**For Detention Programs and/or Run-Away and Homeless Youth Programs:**

- SEL and SCR checks must be submitted/requested at the time the prospective employee completes hiring forms. Any individual who is on the SEL is not to be hired.
- Additionally, an appointment for fingerprinting shall be scheduled at the time the prospective employee fills out the hiring paperwork, with the scheduled appointment occurring no later than 5 business days after the prospective employee's first scheduled day of work. If circumstances exist that unreasonably delay such fingerprinting appointments, please elevate those circumstances to the appropriate OCFS program lead in the OCFS Home Office or the OCFS Regional Office.
- Any staff who has not completed all required background checks, and who has potential for direct contact with youth, must be supervised by an individual who has satisfactorily completed the background check process.

**For Congregate Care Foster Care Programs including all program types described in sections 442 and 447-451 of Title 18 of the New York Codes Rules and Regulations (NYCRR):**

- At this time, and until further flexibility is received from the federal government to relax federal requirements, new staff not covered by (A) or (B) above may not work on site, until satisfactorily completing the background check process.

For further information on the interim background check requirements, please contact the appropriate OCFS program lead in the OCFS Home Office or the OCFS Regional Office:

<https://ocfs.ny.gov/directories/regional-offices.php>.