

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 13: Background Checks	Effective Date: June 1, 2021
	Section 02: Evaluating Background Checks for Licensed Residential Facilities and Child Placing Agencies	Version: 7

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will evaluate the results of Fingerprint-Based National Criminal History Checks (Fingerprint-Based Checks) on all required persons for the purpose of Licensing Residential Facilities and Child Placing Agencies (referred to collectively as “DCS licensed agencies”). DCS licensed agencies will evaluate the remaining background checks. See policy [13.01 Conducting Background Checks for Licensed Residential Facilities and Child Placing Agencies](#) for additional information.

DCS licensed agencies will immediately ensure the subject of the check will not be employed, volunteer, or contract with the agency if the background check or waiver process subsequently reveals:

1. Disqualified criminal history that is not eligible to be waived;
2. Disqualified criminal history or substantiated Child Protective Services (CPS) history in which a waiver action is not supported or pursued by the DCS licensed agency; or
3. Disqualifying criminal history or substantiated CPS history in which a waiver is not granted by DCS.

Fingerprint-Based Check

The DCS Central Office Background Check Unit (COBCU) will evaluate the results of the Fingerprint-Based Checks and notify the assigned DCS licensed agency contact person of the criminal history clearance status by e-mailing the Fingerprint-Based Check Status Letter. See policy [13.15 Fingerprint-Based Checks](#) for additional information.

Child Protective Services (CPS) History Check

DCS licensed agencies will review the completed CPS History Check results from Indiana and all other states of residency within the past five (5) years (if applicable) and determine if there are reports of any substantiations of Child Abuse and/or Neglect (CA/N) for the subject of the check. The existence of substantiated CPS history in Indiana or the equivalent in another state means that unless a waiver is granted (see policy [13.16 Waivers](#)), the subject of the check is ineligible to be a(n):

1. Applicant for a license;
2. Director or Manager of a DCS licensed agency; or
3. Employee, volunteer, and/or contractor for a DCS licensed agency.

National Sex Offender Registry Check

DCS licensed agencies will evaluate the National Sex Offender Registry Check to determine if there are any matches. If there is a match, the subject of the check cannot be employed by, volunteer for, or contract with the facility, and the DCS licensed agencies will notify the COBCU immediately at COBCUinquiry@dcs.in.gov. The COBCU will re-evaluate the Fingerprint-Based Check report and reissue an amended Fingerprint-Based Check Status Letter, if applicable.

Local Criminal Court Records Check

DCS licensed agencies will evaluate the results of the Local Criminal Court Records Check. See policy [13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agency](#) for more information regarding who should complete the Local Criminal Court Records Checks. If the Local Criminal Court Records Check returns convictions for a felony, total of four (4) or more misdemeanors, or a misdemeanor that may relate to the health and safety of a child, the DCS licensed agency shall contact COBCU for additional guidance if the Fingerprint Based Status Letter was qualified.

Code References:

1. [IC 31-27-3-3: Applying for a Child Caring Institution License](#)
2. [IC 31-27-3-5: Grounds for denial of license applications; waiver](#)
3. [IC 31-27-5-4: Apply for licenses; criminal history checks](#)
4. [IC 31-27-5-6: Grounds for denial of license applications; waiver](#)
5. [IC 31-27-6-2: Apply for licenses; criminal history checks](#)
6. [IC 31-27-6-3: Grounds for denial of license applications; waiver](#)
7. [IC 31-9-2-84.8: Nonwaivable offense](#)

PROCEDURE

The DCS Residential Licensing Specialist (RLS) will ensure each DCS licensed agency has conducted background checks, as required in policy [13.01 Conducting Background Checks for Licensed Residential Agencies and Child Placing Agencies](#), and completes the following:

1. Review the Fingerprint-Based Check Status Letter received from COBCU. The fingerprint based status must be "Qualified" for the subject of the check to be employed, volunteer, or contract with the agency, unless a waiver has been granted. See policy 13.15 Fingerprint Based Checks for additional required steps, guidance on evaluating the Fingerprint-Based Check, and information regarding possible fingerprint qualification statuses (i.e., Qualified, Conditionally Disqualified, and Disqualified). See policy 13.16 [Waivers](#) for information regarding eligibility for and requesting a waiver;

Note: If the subject of the check is already employed, volunteering, or contracting with the agency and receives a fingerprint qualification status of:

- a. "Conditionally Disqualified", the subject of the check must have the conditionally disqualified status resolved within 10 business days. If resolved satisfactorily, the DCS licensed agency will receive an amended Fingerprint-Based Check Status Letter from COBCU of "Qualified" before the end of the 10th business day, or
- b. "Disqualified", the DCS licensed agency will immediately remove the subject from the work schedule unless a waiver has been granted.

If the DCS licensed agency does not receive an amended "Qualified" fingerprint-based status within the timeframe or a waiver decision of "Waiver Granted", the DCS licensed agency will immediately remove the subject of the check from the schedule.

2. Review the results of the CPS History Check and:
 - a. Provide the subject of the check with a copy of the completed [Indiana Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#) form showing substantiated history if a substantiated CPS history is discovered from Indiana. See policy [2.06 Sharing of Confidential Information](#) for additional information, and

- b. Work with the subject of the check to submit a complete waiver packet to COBCU as quickly as possible if a CPS substantiation is discovered and the DCS licensed agency is in support of pursuing a CPS history waiver. See policy [13.16 Waivers](#) for information regarding applying for a waiver.

Note: A CPS waiver should be requested and processed at initial agency licensing, agency re-licensure, hiring, or discovery of any additional CPS substantiations, which have not previously been granted a CPS waiver, if discovered between these points. The request for the waiver must be granted by COBCU for the employee, volunteer, or contractor to be hired, volunteer, or contract in the DCS licensed agency. If the subject of the check is already hired, volunteering, or contracting, the DCS licensed agency will immediately remove the subject from the work schedule unless the necessary waiver has been granted.

3. Review the results of the National Sex Offender Registry Check for a match to the subject of the check. If there is a match for the subject of the check, do not hire or allow the subject to volunteer or contract with the facility. If already employed, volunteering, or contracting, the subject of the check must be dismissed;
4. Review the results of the Local Criminal Court Records Check. For further information, see the [Local Criminal Court Records Check Instructions](#); and

Note: Contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter within five (5) days if the Fingerprint-Based Check Status Letter was qualified and the Local Criminal Court Records Check returns conviction of:

- a. A felony,
- b. Four (4) or more misdemeanors, or
- c. A misdemeanor related to the health and safety of a child

In addition, if the DCS licensed agency believes the Local Criminal Court Records Check report may alter the Fingerprint-Based Check Status, the DCS licensed agency will contact the COBCU Consultant listed on the Fingerprint-Based Check Status Letter for further action.

5. File a copy of the results for all background checks and any waiver letters in the subject's personnel folder.

Note: A criminal history or CPS waiver granted for the purpose of employment by, volunteering for, or contracting with a DCS licensed agency may not be used for any additional purpose. A new waiver request must be submitted and granted for each additional purpose.

The DCS COBCU will:

1. Evaluate the criminal history report within five (5) business days of receipt of the Fingerprint-Based Check and notify, by e-mail, the DCS licensed agency's assigned contact person regarding the Fingerprint-Based Check status. See policy [13.15 Fingerprint-Based Checks](#) for additional information;
2. Provide guidance regarding conditionally disqualified or disqualified applicants to DCS licensed agency staff; and
3. Re-evaluate history based on the documentation received from the subject and issue a new Fingerprint-Based Check Status Letter, when applicable.

Note: For waivers of disqualified criminal history and substantiated CPS history see policy [13.16 Waivers](#).

PRACTICE GUIDANCE

Disclosing Fingerprint-Based Check Information

A copy of the official Federal Bureau of Investigations (FBI) and the Indiana State Police (ISP) transcript will not be provided to the DCS licensed agencies nor the subject of the check. DCS may verbally disclose the specific crimes to the subject of the check. If any of the checks conducted by DCS reveal an inaccurate record, the subject of the check may formally challenge the record. A Review Challenge of inaccurate information in Indiana is made to ISP. A criminal history records Review Challenge outside of Indiana must be made to the Law Enforcement Agency (LEA) that posted the record. The subject of the check must be fingerprinted for the Review Challenge, at the subject's expense. The process of the Review Challenge takes place between ISP and the subject of the check, and DCS is not involved in the process.

FORMS AND TOOLS

1. [Indiana Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#)
2. [Local Criminal Court Check Instructions](#)

RELATED INFORMATION

N/A