



# **Criminal History and Child Protection Index Check Policy**

---

*For Charter Schools Authorized by  
the Indiana Charter School Board*

*Adopted May 2018  
Revised July 2023*

For more information, please visit the  
Indiana Charter School Board website:

<http://www.in.gov/icsb>

## Introduction

Charter school board members, leadership, and staff members are charged with overseeing the public dollars and providing educational instruction to Indiana’s students. Because of this responsibility, the Indiana General Assembly established standards for expanded criminal history and child protection index checks for board members and school staff members. The Indiana Charter School Board’s (“ICSB”) criminal history and child protection index checks policy is consistent with all applicable laws and the Charter Agreement (“Charter”).

*Nothing in this policy is intended as legal advice. Laws and their applications in the school setting are ever-changing through legislation and case law. Charter schools and governing boards should not rely or act upon any information contained in this policy in completing expanded criminal history and child protection index checks without first seeking the advice of independent legal counsel.*

## New

In 2023, the Indiana Legislature made substantial revisions to the laws governing background checks and the use of information, revising IC 20-26-5-10, *Adoption of criminal history background and child protection index check policy; implementation of policy-* and adding new section IC 20-26-5-11.2, *Prohibited employment of or contracting with certain individuals; approval of employment or contract as a separate special agenda item; notification* as a replacement for IC 20-26-5-11, *Use of information; notice of conviction of certain offenses.*

**We strongly encourage charter school governing board members and administrators to review these new requirements with an attorney.**

## Definitions

An expanded criminal history (“ECH”) check consists of either:

- (1) a background check by a consumer reporting agency regulated under 15 U.S.C. 1681 et seq. that includes:
  - a. verification of the applicant's identity;
  - b. search of all names associated with the applicant;
  - c. search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;
  - d. search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state;
  - e. search of United States district court records from the districts in which the applicant resided;
  - f. check of sex offender registries in every state or the national sex offender registry maintained by the United States Department of Justice; and
  - g. multistate criminal data base search; or

- (2) a national criminal history background check (performed by the Indiana State Police); and a check of: (i) sex offender registries in all fifty (50) states; or (ii) the national sex offender registry maintained by the United States Department of Justice.

The required check of sex offender registries in all fifty (50) states and the United State Department of Justice national sex offender registry may be completed online at the following website: <https://www.nsopw.gov/>.

An expanded child protection index (“ECPI”) check consists of:

- (1) an inquiry with the department of child services as to whether an individual has been the subject of a substantiated report of child abuse or neglect and is listed in the child protection index established under Indiana Law;
- (2) an inquiry with the child welfare agency of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether there are any substantiated reports that the individual has committed child abuse or neglect; and
- (3) for a certificated employee, an inquiry with the department of education or other entity that may issue a license to teach of each state in which the individual has resided since the individual became eighteen (18) years of age as to whether the individual has ever had a teaching license suspended or revoked.

The purpose of an ECPI check is to determine whether the Indiana Department of Child Services (“DCS”) has determined an allegation of child abuse or neglect to be substantiated. These checks are completed through DCS Central Office Background Check Unit. All requests for completion of this check must be submitted to the main DCS office in Indianapolis.

For more information on both ECH and ECPI, please visit the DCS website at: <https://www.in.gov/dcs/2363.htm> and <https://www.in.gov/dcs/3928.htm>.

### **Criminal History and Child Protection Index Check Policy**

Every charter school is required to adopt and administer a policy requiring ECH and ECPI checks for any individual *who is likely to have direct, ongoing contact with children within the scope of the individuals' service* for the charter school. The policy must require an Indiana ECPI. The policy may require an ECPI in other states. At a minimum, the background policy must include the following information:

- (1) Scope – ECH and ECPI checks must be completed for each member of a charter school’s Governing Board (including any member of a subcommittee or sub-board to which the Governing Board has delegated some authority over the operation of the charter school), as well as, prospective employees, employees of prospective contractors and sub-contractors, service providers, bus drivers, and school volunteers, who are likely to have direct, ongoing contact with children within the scope of the individuals' service.

- (2) Completion Dates
  - a. ECH and ECPI checks must be completed for each Governing Board member prior to the opening date of the school.
  - b. ECH checks for individuals other than Governing Board members must be completed no later than thirty (30) days after the start date of the person's employment.
  - c. ECPI checks for individuals other than Governing Board members must be completed no later than sixty (60) days after the start date of the person's employment.
- (3) Frequency – ECH checks for qualifying individuals must be updated every five (5) years; ECPI checks may be updated every five (5) years.
- (4) Cost
  - a. Costs associated with both ECH and ECPI checks are the responsibility of the individual unless the charter school specifies that it will cover these costs.
  - b. An applicant or an employee cannot be required by the charter school to obtain more than one ECH or ECPI within a 5-year period unless the charter school believes that the applicant or employee is the subject of a substantiated report of child abuse or neglect or has been charged with or convicted of a disqualifying crime.
- (5) Use of Information – Charter schools must consider whether information obtained from an ECH or ECPI concerning an individual's conviction for certain offenses constitutes grounds to not employ, not contract with, or to terminate the employment or contract with an individual that is likely to have direct, ongoing contact within the scope of their employment. A charter school may require an individual to answer questions considering an ECH or ECPI and may terminate or refuse to employ any individual who fails to honestly answer questions.
- (6) Prohibited Employment – A charter school may not hire and must terminate any existing employment of or contract with the following individuals:
  - a. An individual convicted of any of the offenses described in IC § 20-26-5-11.2(b). These are generally serious crimes involving murder, suicide, manslaughter, aggravated battery, kidnapping, carjacking, arson, certain public indecency crimes, sex offences as defined in IC § 11-8-8-5.2, neglect of a dependent, child selling, and offenses related to material or performance that is harmful to minors, etc.
  - b. An individual who has been convicted of an offense requiring license revocation (listed in IC § 20-28-5-8(c)) unless the conviction has been reversed, vacated, or set aside on appeal.
- (7) Employment of Individuals Convicted of Certain Crimes – A charter school may employ or contract with the following individuals if a majority of the members elected or

appointed to the governing body of charter school approves the employment or contract as a separate, special agenda item:

- a. an individual convicted of any of the offenses listed in IC § 20-26-5-11.2(c) These offenses include: operating a motor vehicle while intoxicated, reckless homicide, battery, domestic battery, criminal confinement, certain public indecency crimes, contributing to the delinquency of a minor, certain weapons offenses, and certain offenses involving controlled substances;
  - b. an individual who is required to wear an ankle monitor as a result of a criminal conviction;
  - c. an individual who has entered into an agreement to settle an allegation of misconduct relating to the health, safety, or well-being (as defined in IC § 20-26-5-11.2(i)) of a student at a school corporation, charter school, or state accredited nonpublic school, if the agreement included a nondisclosure agreement covering the alleged misconduct; or
  - d. an individual who, in an academic environment, engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition the child for sexual activity (as defined in IC 35-42-4-13).
  - e. An individual who is the subject of a substantiated report of child abuse or neglect is prohibited from providing services to a charter school in any capacity (including as a Governing Board member) unless such prohibition is expressly waived by the ICSB Executive Director in writing.
- (8) Employee References – Charter schools must adopt a policy to contact employment references, including the applicant’s most recent employer, prior to employment of the applicant.
- (9) Disclosure of Substantiated Reports of Abuse or Neglect – Notwithstanding any confidentiality agreements between the school and an employee, a charter school that receives a request for an employment reference from another school for a current or former employee who is likely to have direct, ongoing contact with children within the scope of the employee's new employment, must disclose any incident known by the school in which the employee:
- a. committed an act resulting in a substantiated report of abuse or neglect under IC 31-6 (before its repeal) or IC 31-33;
  - b. was arrested, charged with a criminal offense, convicted of a criminal offense, under court supervision or the supervision of a community correction program as the result of a conviction for a criminal offense (including being placed on home detention, work release, or intermittent incarceration), the subject of a protection order; or named as a defendant in a civil action if the civil action could affect the safety of students.

- (10) Confidentiality Agreements are not enforceable if entered into or amended after June 30, 2016 if the employee committed an act resulting in a substantiated report of abuse or neglect under IC 31-6 (before its repeal) or IC 31-33.

### **Organizer Responsibility to the ICSB**

Upon Charter approval, the organizer is responsible for providing evidence to ICSB of ECH and ECPI checks for all proposed Governing Board members and all staff hired prior to the first day of school operation. The evidence of completion must consist of a signed assurance that the organizer has completed ECH and ECPI checks on all Governing Board members, members of any sub-committee, school leadership, contractors, and their employees likely to interact with students, and volunteers. As additional Board members are appointed and new staff is hired, the Organizer is responsible for conducting ECH and ECPI checks pursuant to the policies and processes discussed above. Evidence of the completion of these checks should be provided to ICSB upon completion and/or as required by the yearly ICSB reporting requirements .