

## CRIMINAL RECORD CHECK PROCEDURE

Center Directors Learning Lab

October 22, 2015

### Why was the procedure revised?

- Head Start finding in 187 grant
- New information about how OHS interprets criminal record check section of the Head Start Act
- Research into state laws, best practice
- High priority – safety for children, families, and staff

### What didn't change

The end result is the same: Staff need to have a fingerprint-based record check before having unsupervised access to children

Licensed centers go through DEL's Portable Background Check process, not PSESD's process.

### What did change

- Clarification: WSP **AND** FBI fingerprint-based record check are required
- Added instructions on how to walk through the process
- Send copy of results to PSESD for file – keep originals in center personnel file
  - For documentation purposes only, PSESD does not make eligibility determinations

### Two Pathways

- Option 1 – Preferred method:
  - Get clearance before start date
  - Single expense
- Option 2 – Conditional Hire:
  - Initial name/birthdate-based records check
  - Staff person has prints done within 5 days of start date
  - Can't be unsupervised with children until cleared
  - Site submits *Supervision Plan Form* to ESD
  - Additional expense

### ECEAP: To know

- Currently, DEL's Portable Background Check system is only available to licensed child care centers
- By July 1, 2016: DEL will require all ECEAP center staff (not just licensed centers) to have a Portable Background Check on file
- The system is not yet available for non-licensed centers, but we will notify you as soon as it is
- We've communicated to DEL that to achieve this deadline, it needs to be open by early Spring

***We'll be sending out a short survey after this meeting to help determine current subcontractor practices and the possible impacts of this procedure.***

## Purpose

A Criminal Record Check (CRC) is required for anyone working with ECEAP, Head Start, or Early Head Start children or funded with ECEAP, Head Start, or Early Head Start dollars. This procedure explains to Center Leaders how to obtain and evaluate the Criminal Record Check.

## Procedure

If you are a licensed child care facility, you do NOT need to proceed any further in this procedure.

Follow DEL's Portable Background Check process: [www.del.wa.gov/requirements/info/background.aspx](http://www.del.wa.gov/requirements/info/background.aspx)

If the Center has an internal policy/procedure that is more stringent than this procedure, the Center must follow its internal policy/procedure.

## Definitions

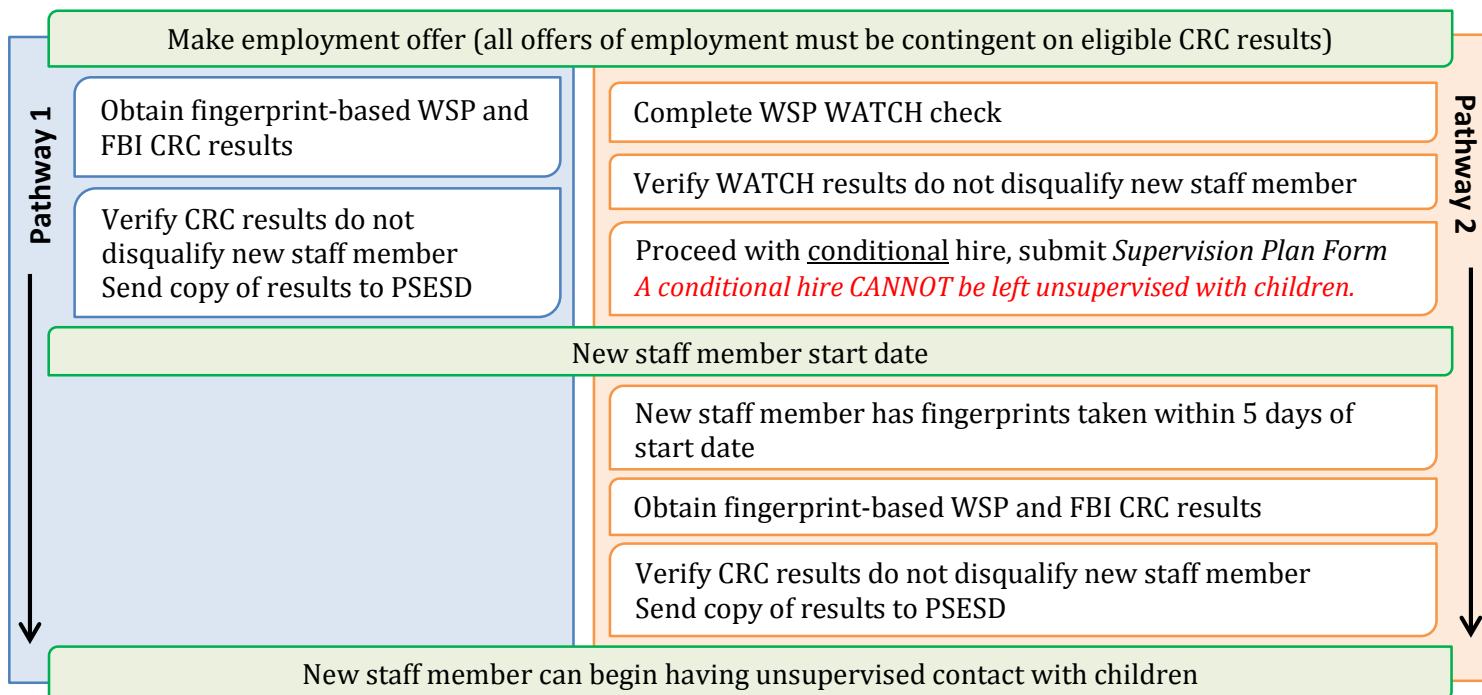
- "Hire date" means the date that the new staff person is offered and accepts the position.
- "Start date" means the date that the new staff person starts in the position (orientation, 1<sup>st</sup> work day, etc.). In the case of an internal transfer from elsewhere in the hiring agency, "start date" means the date the new staff person begins working with ECEAP, Head Start, or Early Head Start children and families.

## Two Pathways

There are two pathways to determine if a potential staff person is eligible for employment in our Early Learning program.

In the first pathway, you determine eligibility before the staff person starts in the position.

In the second pathway, the new staff person is hired conditionally, pending their eligibility results. In this pathway, the new staff person CANNOT be left unsupervised with ECEAP, Head Start, or Early Head Start children until the results have been received and reviewed for eligibility.



# Criminal Record Check Procedure

## Detailed Pathway Steps

### Pathway 1 (Preferred Method)

1. Make employment offer.
  - a. NOTE: All offers of employment must be contingent on eligible fingerprint-based WSP and FBI Criminal Record Check results.
2. Before start date, obtain fingerprint-based WSP and FBI Criminal Record Check results.
  - a. If staff person was fingerprinted in the past 2 years and the results were forwarded to the Office of Superintendent of Public Instruction (OSPI), their records can be obtained by:
    - i. School districts and colleges have access to the Educational Data System (EDS) which holds the results of those checks.
    - ii. Other agencies can submit a Request for Background Check Results Form to OSPI ([www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc))
  - b. If 'a' above doesn't apply, there are 2 options to have fingerprints taken:
    - i. Fingerprinting Option 1 (Prints taken at ESD):
      1. Have prints taken at PSESD (instructions: [www.psesd.org/services/administrative-and-management-services/certification-and-fingerprinting/](http://www.psesd.org/services/administrative-and-management-services/certification-and-fingerprinting/)) or any other WA state ESD office ([www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx](http://www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx))
      2. Submit a Request for Background Check Results Form to OSPI 5-10 days after prints are taken ([www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc))
    - ii. Fingerprinting Option 2 (Prints taken at private or law enforcement agency):
      1. Request a fingerprint card from OSPI ([oppfp@k12.wa.us](mailto:oppfp@k12.wa.us)).
      2. Once you receive the fingerprint card, bring the card to a private fingerprinting or law enforcement agency where they will apply your fingerprints onto the card.
      3. Mail the completed fingerprint card and the \$45.75 fee (check, money order, or cashier's check made payable to OSPI) to: OSPI, Attn: Fiscal Office, PO Box 47200, Olympia, WA 98504-7200.
      4. Submit a Request for Background Check Results Form to OSPI 5-10 days after prints are taken ([www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc))
3. Review the results using the guidance on pages 3 and 4 of this document.
4. If the staff person's criminal record check results don't disqualify them from employment, proceed with job offer.
5. Send a copy of the criminal record check results (for documentation only, not eligibility determination) to PSESD (ECEAP: Kristyl Riddle, [kriddle@psed.org](mailto:kriddle@psed.org); Head Start/Early Head Start: Twilla Leen, [tleen@psed.org](mailto:tleen@psed.org)). Keep all original documentation in new staff member's personnel file.

### Pathway 2 (Conditional Hire)

1. Make employment offer.
  - a. NOTE: All offers of employment must be contingent on eligible fingerprint-based WSP and FBI Criminal Record Check results.
2. Before start date, complete WSP Washington Access to Criminal History (WATCH) check (<https://fortress.wa.gov/wsp/watch/>).
3. Review the results using the guidance on pages 3 and 4 of this document.
4. If the staff person's WATCH results don't disqualify them from employment, proceed with conditional hire, pending employment-eligible results from fingerprint-based Criminal Record Check.

**A Conditional Hire CANNOT be left unsupervised with ECEAP, Head Start, or Early Head Start children.** If the conditional hire will be working at the site prior to receiving and reviewing the fingerprint-based Criminal Record Check results, a *Supervision Plan Form* needs to be submitted to PSESD.

## Criminal Record Check Procedure

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5. No later than 5 days after start date, new staff person has fingerprints taken:
  - a. Fingerprinting Option 1 (Prints taken at ESD):
    - i. Have prints taken at PSESD (instructions: [www.psesd.org/services/administrative-and-management-services/certification-and-fingerprinting/](http://www.psesd.org/services/administrative-and-management-services/certification-and-fingerprinting/)) or any other WA state ESD office ([www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx](http://www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx))
    - ii. Submit a Request for Background Check Results Form to OSPI 5-10 days after prints are taken ([www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc))
  - b. Fingerprinting Option 2 (Prints taken at private or law enforcement agency):
    - i. Request a fingerprint card from OSPI ([oppfp@k12.wa.us](mailto:oppfp@k12.wa.us)).
    - ii. Once you receive the fingerprint card, bring the card to a private fingerprinting or law enforcement agency where they will apply your fingerprints onto the card.
    - iii. Mail the completed fingerprint card and the \$45.75 fee (check, money order, or cashier's check made payable to OSPI) to: OSPI, Attn: Fiscal Office, PO Box 47200, Olympia, WA 98504-7200.
    - iv. Submit a Request for Background Check Results Form to OSPI 5-10 days after prints are taken ([www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc))
6. Review the results using the guidance on pages 3 and 4 of this document.
7. If the staff person's criminal record check results don't disqualify them from employment, remove conditional status.
8. Send a copy of the criminal record check results (for documentation only, not eligibility determination) to PSESD (ECEAP: Kristyl Riddle, [kriddle@psed.org](mailto:kriddle@psed.org); Head Start/Early Head Start: Twilla Leen, [tleen@psed.org](mailto:tleen@psed.org)). Keep all original documentation in new staff member's personnel file.

### Reading the Results

A result of "Clear" from both WSP and FBI makes the new staff person eligible for employment.

If you receive an actual listing of criminal record history, RCW 43.215.215 (1) says: In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child.

For additional guidance on crimes that would make a new staff person ineligible for a position in our program, PSESD is using WAC 170-06-0120 (originally intended specifically for child care) as guidance for our full program.

### WAC 170-06-0120: Director's list.

(1) A subject individual's conviction for any crimes listed in column (a) in the table below will permanently disqualify him or her from authorization to care for or have unsupervised access to children in child care.

(2) A subject individual's conviction for any crime listed in column (b) in the table below will disqualify him or her from authorization to care for or have unsupervised access to children in child care for a period of five years from the date of conviction.

### (Column A) Crimes that permanently disqualify a subject individual

- |                               |   |   |
|-------------------------------|---|---|
| • Abandonment of a child      | • Child buying or selling                         | • Controlled substance homicide                                       |
| • Arson                       | • Child molestation                               | • Criminal mistreatment   |
| • Assault 1                   | • Commercial sexual abuse of a minor              | • Custodial interference  |
| • Assault 2                   | • Communication with a minor for immoral purposes | • Dealing in depictions of minor engaged in sexually explicit conduct |
| • Assault 3 domestic violence |   |   |
| • Assault of a child          |   |   |
| • Bail jumping                |   |   |

## Criminal Record Check Procedure

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- Domestic violence (felonies only)
- Drive-by shooting
- Extortion 1
- Harassment domestic violence
- Homicide by abuse
- Homicide by watercraft
- Incendiary devices (possess, manufacture, dispose)
- Incest
- Indecent exposure/public indecency (felonies only)
- Indecent liberties
- Kidnapping
- Luring
- Malicious explosion 1
- Malicious explosion 2
- Malicious harassment
- Malicious mischief domestic violence
- Malicious placement of an explosive 1
- Manslaughter
- Murder/aggravated murder
- Possess depictions minor engaged in sexual conduct
- Rape
- Rape of child
- Robbery
- Selling or distributing erotic material to a minor
- Sending or bringing into the state depictions of a minor
- Sexual exploitation of minors
- Sexual misconduct with a minor
- Sexually violating human remains
- Use of machine gun in felony
- Vehicular assault
- Vehicular homicide (negligent homicide)
- Violation of child abuse restraining order
- Violation of civil anti-harassment protection order
- Violation of protection/contact/restraining order
- Voyeurism

### (Column B) Crimes that disqualify a subject individual for five years from date of conviction

- Abandonment of a dependent person not against child
- Assault 3 not domestic violence
- Assault 4/simple assault
- Burglary
- Coercion
- Custodial assault
- Custodial sexual misconduct
- Extortion 2
- Forgery
- Harassment
- Identity theft
- Leading organized crime
- Malicious explosion 3
- Malicious mischief
- Malicious placement of an explosive 2
- Malicious placement of an explosive 3
- Malicious placement of imitation device 1
- Patronizing a prostitute
- Possess explosive device
- Promoting pornography
- Promoting prostitution 1
- Promoting prostitution 2
- Promoting suicide attempt
- Prostitution
- Reckless endangerment
- Residential burglary
- Stalking
- Theft
- Theft-welfare
- Unlawful imprisonment
- Unlawful use of a building for drug purposes
- Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)
- Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)
- Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)
- Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)

# Supervision Plan Form



Center: \_\_\_\_\_ Site: \_\_\_\_\_

Conditional Hire's Name: \_\_\_\_\_

Position: \_\_\_\_\_ Start Date: \_\_\_\_\_

Conditional Hire had will have fingerprints taken on: \_\_\_\_\_  
(no later than 5 days after start date)

The Criminal Record Check Procedure states: ***"A Conditional Hire CANNOT be left unsupervised with ECEAP, Head Start, or Early Head Start children. If the conditional hire will be working at the site prior to receiving and reviewing the fingerprint-based Criminal Record Check results, a Supervision Plan Form needs to be submitted to PSESD."***

Describe how you will ensure that the Conditional Hire named above will NOT be left unsupervised with ECEAP, Head Start, or Early Head Start children:

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I will ensure that the Conditional Hire named above will NOT be left unsupervised with ECEAP, Head Start, or Early Head Start children until the Conditional Hire's fingerprint-based Criminal Record Check results have been received and reviewed for employment eligibility in the program.

\_\_\_\_\_  
Center Director Date

I will not enter into a situation where I am left unsupervised with ECEAP, Head Start, or Early Head Start children until my fingerprint-based Criminal Record Check results have been received and reviewed for employment eligibility in the program.

\_\_\_\_\_  
Conditional Hire Date

Submit to: Kristyl Riddle ([kriddle@psed.org](mailto:kriddle@psed.org))

