Criminal Records Checks

Rhode Island Department of Children, Youth and Families
Policy: 900.0040
Effective Date: January 9, 2006 *Version: 1*

Statewide and nationwide, including fingerprinting, criminal background checks are required for the following individuals in accordance with Federal and State law and Department policy:

- Prospective foster parents and household members, age eighteen (18) or over
- Prospective adoptive parents and household members age eighteen (18) or over
- Prospective residential child care facility operators
- Prospective residential child care facility employees, volunteers and consultants if the individuals are applying for positions that involve supervisory or disciplinary power or involve routine contact with a child or children without the presence of other employees
- Prospective day care center and family day care home owners and operators
- Prospective day care center or family day care home employees, volunteers and consultants if the individuals are applying for positions that involve supervisory or disciplinary power or involve routine contact with a child or children without the presence of other employees
- Prospective child placing agency owners and operators
- Prospective child placing agency employees, volunteers and consultants if the individuals are applying for positions that involve supervisory or disciplinary power or involve routine contact with a child or children without the presence of other employees
- Prospective operators and employees, applying for positions that involve supervisory or disciplinary power or involve routine contact with a child or children without the presence of other employees, of community based programs, which are required to be licensed or certified by the Department
- Prospective Rhode Island Training School employees, volunteers and consultants if the individuals are applying for positions that involve supervisory or disciplinary power or involve routine contact with a child or children without the presence of other employees

Statewide criminal background checks are required for the following individuals:

- Family day care home household members, age eighteen (18) or over
- Respite care providers
- Visiting resources for children receiving DCYF services
- All DCYF employees, interns and volunteers (other than Training School, who require fingerprinting)

Statewide criminal background checks may be required for the following individuals:

- Subjects of reports of child abuse and/or neglect to the Call Floor
- Individuals referred to the Department for services and all adult household members
- Persons who have contact with children receiving DCYF services

An individual subject to a criminal records check may also be required to undergo an employment background check (refer to ***DCYF Policy 900.0035, Employment Background Checks Facility Operators/Facility Employees***; ***DCYF Policy: 200.0065, Employment Background Checks - Training School***) and/or a clearance for substantiated allegations of child abuse and neglect (refer to ***DCYF Policy 700.0105, Clearance of Agency Activity***).

The following Federal and State statutes apply:

- The National Child Protection Act of 1993 [42 U.S.C. 5119] (a) authorizes nationwide criminal records checks to determine if a child care provider has been convicted of a

crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children.

- Federal Law [42 U.S.C. 671] (a) (20) and Regulation [45 CFR 1356.30] relating to the Adoption and Safe Families Act (ASFA) require that the Department cannot approve or license an adoptive home or a foster home if the prospective foster or adoptive parent has been convicted of a felony involving child abuse or neglect, spousal abuse, a crime against a child or children (including child pornography) or a crime involving violence, including rape, sexual assault or homicide. Further, the Department cannot approve or license an adoptive parent or a foster parent who has, within the last five years, been convicted of a felony involving physical assault, battery or a drug-related offense.

- Rhode Island General Law (RIGL) 14-1-34 requires prospective foster parent to undergo a statewide and nationwide criminal records check. The nationwide criminal records check will be provided to the foster care applicant without charge.

- RIGL 15-7-11 requires prospective adoptive parent to undergo a statewide and nationwide criminal records check. The results are included in the adoption home study report submitted to the Family Court. The Department or the private child placing agency conducting the home study is responsible for all costs relating to the criminal checks.

- RIGL 40-13.2-4 requires that any person seeking to operate a facility which is required to be licensed or registered with the Department shall undergo a nationwide criminal records check.

- RIGL 40-13.2-5 requires that any person seeking employment in any facility which is required to be licensed or registered with the Department or seeking employment at the RI Training School if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, shall undergo a nationwide criminal records check. The nationwide criminal records check will be provided to the applicant for employment without charge.

The Department has established, in compliance with RIGL 40-13.2, a listing of criminal activity (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***) which constitutes disqualifying information because that information would indicate that the employment could endanger the health or welfare of a child or children. The arrest and conviction or arrest pending disposition for one of the criminal offenses included in the Criminal Records Checks Addendum disqualifies an applicant from operating or seeking employment in a child care facility, receiving a license or certification to provide care for a child, receiving approval as an adoptive parent, seeking employment at the RI Training School or serving in any other role subject to a criminal background check in accordance with federal and/or state law or DCYF policy. For purposes of this protocol, "conviction" means a judgment of conviction entered by a court subsequent to a finding of guilty. Further, any case where a defendant has entered a plea of nolo contendere and has received a sentence that includes a fine and/or a period of incarceration shall constitute a conviction. In addition, any instance where the defendant has entered a plea of nolo contendere and has received a sentence of only probation shall constitute a conviction while the probationary period is pending. This Addendum is also utilized to carry out the provisions of RIGL 40-13.2-4.1 and 40-13.2-5.1 relating to statewide criminal records checks for youth serving agency operators and employees.

An individual subject to a nationwide criminal records check may apply to the bureau of criminal identification of the state police or the local police department. The check will conform to applicable federal standards including the taking of fingerprints to identify the applicant. If disqualifying information is found, the applicant and, in the case of foster and adoptive parents and facility operators, the Department will be informed in writing of the nature of the disqualifying

information. The employer will be informed whether or not disqualifying information exists. If no disqualifying information is found, the applicant and the employer and/or the Department will be informed in writing of this fact.

An individual subject to a statewide criminal background check authorizes the Department and/or the employer to process and obtain the results of the statewide BCI check.

RIGL 40-13.2-6 provides that if an applicant for employment has undergone a criminal records check within eighteen (18) months of an application for employment, an employer may request from the bureau of criminal identification of the state police or the local police department, or the Attorney General's Office for employees of youth serving agencies, a letter indicating if any disqualifying information was discovered. The state or local police bureau of criminal identification or the Attorney General's Office will respond by stating if an item of disqualifying information was discovered without disclosing the nature of the disqualifying information or by stating that no disqualifying information was discovered. The letter may be maintained on file to satisfy the fingerprinting requirements for employment. RIGL 15-7-11 provides that a prospective adoptive parent may not be required to submit to a nationwide criminal records check if he or she has submitted to this check within the previous eighteen (18) months of an application.

An individual who has disqualifying information (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***) is entitled to appeal that disqualification in accordance with the Administrative Procedures Act (RIGL 42-35-9 and 42-35-15) and subject to the procedures promulgated within this rule.

Related Procedures

RI Criminal History System Clearance (Statewide BCI)

Criminal Records Checks on Prospective Foster and Adoptive Parents

Criminal Records Checks on Prospective Facility Operators and Employees

Criminal Records Checks on Prospective Employees of the Training School

Appeal of Denial/Revocation of Licensure/Certification or Denial/Termination of Employment

Criminal Records Checks – Addendum, Disqualifying Information

RI Criminal History System Clearance (Statewide BCI)

Procedure From Policy 900.0040: Criminal Records Checks

A. The following individuals, who are not required to undergo nationwide criminal records checks (including fingerprinting), are subject to statewide criminal background checks (BCI).
   1. Statewide criminal background checks are required for the following individuals:
      a. Family day care home household members, age eighteen (18) or over
      b. Respite care providers
      c. Visiting resources for children receiving DCYF services
      d. All DCYF employees, interns and volunteers (other than RI Training School, who require fingerprinting)
   2. Statewide criminal background checks may be required for the following individuals:
      a. Subjects of reports of child abuse and/or neglect to the Call Floor
      b. Individuals referred to the Department for services and all adult household members
      c. Persons who have contact with children receiving DCYF services

B. An individual, in accordance with this policy, who requires a nationwide criminal records check, including fingerprinting, is also subject to the statewide BCI clearance. Some statewide BCI clearances are completed by DCYF staff and others are completed by the Department of the Attorney General upon the request of a child placing agency or facility operator in accordance with provisions outlined within this rule.

C. A DCYF staff person is responsible to complete or ensure the completion of any required statewide BCI check relating to his or her work assignments.
   1. Designated DCYF staff persons have access to the Rhode Island Criminal History System, through an agreement with the Department of the Attorney General.
   2. DCYF staff person, requiring statewide BCI, who does not have access to the System, submits the Rhode Island Criminal History System Clearance (DCYF #034) to a designated staff person authorized to access the System.
   3. Authorized staff person, who completes the statewide BCI, documents results on the DCYF #034 and prints and attaches to the DCYF #034 information relating to any suspected matches.
   4. Worker who requested the clearance reviews the results of the check to ensure that the information relates to the intended person and includes a copy of the results in the DCYF record.
   5. DCYF staff person is prohibited from providing copies of this information to persons outside of the Department. Subjects of BCI clearances who wish copies of clearance results must request a clearance directly from the Department of the Attorney General.

Criminal Records Checks on Prospective Foster and Adoptive Resources

Procedure From Policy 900.0040: Criminal Records Checks

A. Statewide and nationwide criminal records checks are completed on all prospective foster and adoptive parents and household members over age eighteen (18).

B. Statewide BCI is completed by designated DCYF staff person and the results are documented on RI Criminal History System Clearance (DCYF #034).
   1. As part of the initial application process for foster care or adoption licensing, the statewide check is completed by the Foster Care or Adoption Preparation and Support licensing staff person.
   2. In the case of an emergency placement of a child in a kinship foster home prior to the completion of the licensing process, the statewide criminal check is completed by the assigned Child Protective Services, Family Services, Juvenile Probation or RI Training School staff person responsible to place the child (refer to DCYF Policy 900.0020, Licensing of Foster Homes for specific procedures relating to completing, reviewing and processing this preliminary criminal check).

C. It is the responsibility of the child placing agency, in the case of a foster or adoptive home licensed through a child placing agency, to ensure that the statewide BCI is completed.

D. Foster or adoptive applicant or adult household member is instructed (by the DCYF foster care or adoption licensing worker, the DCYF staff person placing the child in a kinship placement on an emergency basis prior to completion of the licensing process or by the child placing agency staff, in the case of a foster or adoptive home licensed through a child placing agency) to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check, which includes the taking of fingerprints.
   1. Applicant is provided with, and brings to law enforcement agency, Fingerprint Affidavit (DCYF #109A), which includes the ***Criminal Records Checks Addendum, Disqualifying Information*** and informs the law enforcement agency where results of the check should be sent.
   2. Criminal records check is conducted without charge to prospective foster parents or adoptive parents. In the case of prospective adoptive parents, DCYF or the private child placing agency conducting the adoption home study is responsible for all costs relating to the criminal checks.
   3. Results of the check are sent to the Department or child placing agency.
      a. DCYF will be provided with details of criminal convictions in addition to being notified that there is disqualifying information (refer to ***Criminal Records Checks Addendum, Disqualifying Information***). If the Department receives information regarding a history of non-disqualifying criminal information, this information must be reviewed by supervisor and administrator prior to proceeding with licensing.
      b. A child placing agency will only be notified whether or not disqualifying information exists.
   4. RIGL 15-7-11 provides that an individual applying to be an adoptive parent may not be required to submit to this check if he/she has undergone a nationwide criminal records check, in accordance with a statutory provision referenced below, in the eighteen (18) months prior to the date of application. A letter from the state or local police who completed the nationwide check verifying the date and results of that check shall be acceptable.
      a. RIGL 14-1-34 (foster parent)

b. RIGL 40-13.2-2, 40-13.2-4, 40-13.2-5 (child care facility employee or operator)
c. RIGL 16-48.1-4, 16-48.1-5 (nursery school operator or employee)

E. If no disqualifying information has been discovered, DCYF Licensing or child placing agency staff proceeds with the licensing process and places the results of the criminal records check in the applicant's record.

F. If disqualifying information has been discovered, DCYF Licensing or the child placing agency will immediately notify the applicant and the DCYF Hearing Officer in writing of the denial of licensure.

G. The notification letter informs the applicant of the right to appeal to the Department's Administrative Hearing Officer.

H. As part of the re-licensing process, a statewide BCI is completed by DCYF or child placing agency staff person who is completing the re-licensing process.

Criminal Records Checks on Prospective Facility Operators and Employees

Procedure From Policy 900.0040: Criminal Records Checks

A. Facility Owners and Operators

1. Statewide and nationwide criminal records checks are completed on all prospective residential child care facility owners and operators, child placing facility owners and operators, day care center owners and operators, family day care home operators and operators of community based programs requiring DCYF licensing.
2. Statewide BCI is completed by designated DCYF staff person and results are documented on RI Criminal History System Clearance (DCYF #034) and included in the DCYF record.
3. Applicant is instructed to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check, which includes the taking of fingerprints.
   a. Applicant completes Employment History Affidavit (DCYF #108) and Criminal History Affidavit (DCYF #109) for the DCYF record.
   b. Applicant is provided with and brings to law enforcement agency Fingerprint Affidavit (DCYF #109A), which includes the ***Criminal Records Checks Addendum, Disqualifying Information*** and informs the law enforcement agency where results of the check should be sent.
   c. Results of the check, identifying the nature of the disqualifying information, are sent to the Department.
4. If no disqualifying information has been discovered, Licensing staff proceeds with the licensing process and places the results of the criminal records check in the applicant's record.
5. If disqualifying information has been discovered, Licensing staff will immediately notify the applicant and the DCYF Hearing Officer in writing of the denial of licensure.
6. The notification letter informs the applicant of the right to appeal, if the disqualifying criminal offense is appealable, to the Department's Administrative Hearing Officer.
7. As part of the re-licensing process, DCYF Licensing staff completes a statewide BCI check on the owner/operator and ensures that Employment History Affidavit (DCYF #108), Criminal History Affidavit (DCYF #109) and written results of the criminal records check are in the DCYF file for each owner/operator.

B. Employees

1. Home day care assistants and individuals providing emergency coverage
   a. Home day care assistants and individuals providing emergency coverage are subject to statewide and nationwide criminal records checks, including fingerprinting.
   b. Home day care operator ensures that applicant completes Employment History Affidavit (DCYF #108) and Criminal History Affidavit (DCYF #109) and forwards to DCYF Day Care Licensing.
   c. Day Care Licensing staff completes statewide BCI check for applicant. Results are documented on RI Criminal History System Clearance (DCYF #034) and included in the DCYF record.
   d. Home day care operator instructs applicant to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check, which includes the taking of fingerprints. The nationwide criminal records check is conducted without charge to applicant.

i. Applicant is provided with, and brings to law enforcement agency, Fingerprint Affidavit (DCYF #109A), which includes the ***Criminal Records Checks Addendum, Disqualifying Information*** and informs the law enforcement agency where results of the check should be sent.

ii. Results of the fingerprinting will be sent to the Department, indicating that the applicant does or does not have disqualifying information.

e. If no disqualifying information has been discovered, Day Care Licensing staff informs the home day care operator that the prospective employee is eligible for employment and places the results of the criminal records check in the file of the day care provider.

f. If disqualifying information has been discovered, Day Care Licensing staff informs the home day care operator that the prospective employee is ineligible for employment. The applicant/employee is provided with a copy of this notification and informed of his or her right to appeal (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***).

g. As part of the re-licensing process, DCYF Licensing staff completes a statewide BCI check on home day care assistants, individuals providing emergency coverage and adult household members. Staff ensures that Employment History Affidavit (DCYF #108), Criminal History Affidavit (DCYF #109) and written results of the criminal records checks are in the DCYF record for home day care staff.

2. Facility Employees

a. Facility operator must require all persons who are offered employment in positions that involve supervisory or disciplinary power over a child or involve routine contact with a child without the presence of other employees to undergo statewide and nationwide criminal records checks. Department policy requires criminal records checks not only on prospective employees but also volunteers and consultants when their positions involve supervisory or disciplinary power or routine contact with a child without the presence of other employees.

b. Operator ensures that Employment History Affidavit (DCYF #108) and Criminal History Affidavit (DCYF #109) is completed by the applicant.

c. Operator instructs the applicant to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check, which includes the taking of fingerprints. The nationwide criminal records check is conducted without charge to the applicant for employment.

i. Applicant is provided with, and brings to law enforcement agency, Fingerprint Affidavit (DCYF #109A), which includes the ***Criminal Records Checks Addendum, Disqualifying Information*** and informs the law enforcement agency where results of the check should be sent.

ii. Results of the fingerprinting are sent to the employer, indicating that the applicant does or does not have disqualifying information.

d. If facility administrator hires the employee prior to receiving the results of the fingerprinting, the following provisions apply:

i. Employment History Affidavit (DCYF #108), Criminal History Affidavit (DCYF #109) and results of the statewide BCI, indicating no history of disqualifying information, must be completed and fingerprints taken prior to the applicant beginning the job assignment.

ii. Applicant ensures that prior to starting employment, the employer has received written verification that the nationwide

criminal records check has been initiated and this documentation of fingerprinting shall be placed in the employee's personnel file.

iii. Until the results of the fingerprinting are received by the employer, the employee, volunteer or consultant, shall not have supervisory or disciplinary power or routine contact with child(ren) without the presence of others.

iv. Within ninety (90) calendar days of hiring, notice shall be placed in the personnel file identifying the results of the criminal records check. If notice is not received within ninety (90) days, the applicant shall be relieved of child caring responsibilities.

e. Upon receipt of notification that disqualifying information has been discovered, the facility administrator shall immediately notify the applicant that his/her application is rejected or, in the case of an individual who is already employed, that employment will be terminated in ten (10) working days.

i. This letter shall inform the employee of his or her right to appeal (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***).

ii. A copy of this letter is provided to DCYF Licensing and to the DCYF Hearing Officer.

iii. Any notifications by the DCYF Hearing Officer to the Licensing Unit within the context of the appeal process are to be shared by the Licensing staff with the facility administrator.

f. Certain employees, volunteers or consultants need not undergo the criminal records check if they do not have supervisory or disciplinary power or routine contact with children without the presence of others. In these situations the facility operator must have certified in writing that this individual has no routine contact with child(ren). A copy of this certification must be provided to the Department's Licensing Unit staff and filed in the employee's personnel file.

g. Facility operator's failure to require the criminal records check, in compliance with law or DCYF policy, or failure to maintain the written results of the check or the above referenced certification on file will be grounds to revoke the license or certification of the operator.

h. As part of the re-licensing process, the facility operator is responsible to ensure that a statewide BCI check is completed for each full or part time employee, volunteer or consultant, who has supervisory or disciplinary power or routine contact with child(ren) without the presence of others. DCYF Licensing staff ensures that the facility record contains Employment History Affidavit (DCYF #108), Criminal History Affidavit (DCYF #109) and written results of the criminal records check for these individuals.

i. Expungement of the results of the employee's criminal records check shall be consistent with the facility's policy on expunging the employee's personnel file after termination of employment.

3. Prior nationwide criminal checks for employees

a. RIGL 40-13.2-6 provides that an applicant for employment may not be required to submit to fingerprinting if he/she has submitted to the nationwide criminal records check, in accordance with a statutory provision referenced below, in the eighteen (18) months prior to the date of application check pursuant to:

i. RIGL 40-13.2-4 (child care facility operator)

ii. RIGL 40-13.2-4.1 (youth serving agency operator)

iii. RIGL 40-13.2-5 (child care facility employee)

iv. RIGL 40-13.2-5.1 (youth serving agency employee)

b. Employer may request, from the bureau of criminal identification of the state police or the local police department or the Attorney General's Office for employees of youth serving agencies pursuant to 40-13.2-4.1 and 40-13.2-5.1, a letter indicating if any disqualifying information was discovered.

c. State or local police bureau of criminal identification or the Attorney General's Office will respond by stating if an item of disqualifying information was discovered without disclosing the nature of the disqualifying information or by stating that no disqualifying information was discovered.

d. This letter from the state or local police who completed the nationwide check verifying the date and results of that check shall be acceptable and must be maintained on file to satisfy the requirements of RIGL 40-13.2-4, 40-13.2-4.1, 40-13.2-5 or 40-13.2-5.1.

Criminal Records Checks - Employees of the Training School

Procedure From Policy 900.0040: Criminal Records Checks

A. All prospective employees of the RI Training School who are offered employment in positions that involve supervisory or disciplinary power over a child or involve routine contact with a child without the presence of other employees are required to undergo statewide and nationwide (including fingerprinting) criminal records checks. Department policy requires criminal records checks not only on prospective employees but also volunteers and consultants when their positions involve supervisory or disciplinary power or routine contact with a child without the presence of other employees.

B. Human Resources staff ensures that the prospective employee completes the Criminal Information Section of the Application for Employment at the time of the initial interview.

C. Human Resources staff completes the statewide BCI check and results are documented on RI Criminal History System Clearance (DCYF #034) and included in the personnel file.

D. Human Resources staff ensures that Employment History Affidavit (DCYF #108) is completed by the applicant.

E. Human Resources staff instructs Juvenile Program staff upon acceptance to the training academy and other prospective employees subject to this check upon selection for the position to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check, which includes the taking of fingerprints. Applicant is provided with, and brings to law enforcement agency, Fingerprint Affidavit (DCYF #109A), which includes the ***Criminal Records Checks Addendum, Disqualifying Information*** and informs the law enforcement agency where results of the check should be sent.

F. The prospective employee forwards to Human Resources prior to starting employment written verification that fingerprints were taken.

G. If the prospective employee has undergone a nationwide criminal records check within eighteen (18) months of application for employment, Human Resources may accept a letter from the Bureau of Criminal Identification verifying the date and results of the check (refer to section 3, Prior Nationwide Criminal Checks in the above ***Procedure: Criminal Records Checks on Prospective Facility Operators and Employees*** *for details*)

H. If the results of the fingerprinting are not received by Human Resources within sixty (60) calendar days of an individual's employment, the administrator or designee contacts the appropriate bureau of criminal identification requesting the status of the check.

I. Upon written verification that fingerprints were taken, Human Resources may hire the applicant for a provisional period not to exceed ninety (90) calendar days.

J. Upon receipt of the results of the criminal records check, Human Resources may take action relative to the employee's continued employment based on the following:
   1. If no disqualifying information has been found, both the applicant/employee and the Department will be informed of this fact in writing. Written documentation that fingerprints were taken and results of the criminal records check are maintained in the employee's personnel file.
   2. If disqualifying information has been found, the applicant/employee will be informed in writing of the nature of the disqualifying information. The Department will be informed in writing only that disqualifying information has been found.

a. Upon receipt of notification that disqualifying information has been discovered, Human Resources immediately notifies the applicant/employee in writing that he/she will not be hired or that his/her employment will be terminated within ten (10) working days. A copy of this letter is provided by Human Resources to the appropriate division head and to the DCYF Hearing Officer.

b. The notification letter informs the applicant/employee of the right to appeal (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***).

Appeal of Denial/Revocation of Licensure/Certification or Denial/Termination of Employment

Procedure From Policy 900.0040: Criminal Records Checks

A. Level 1 Offenses - If an individual is disqualified for the arrest and/or conviction for any Level 1 Offense (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***), that individual shall have a right to appeal the denial or revocation of a license/certification or the denial or termination of employment for the purpose of demonstrating that he or she has not been arrested and/or convicted for such an offense.

1. Within thirty (30) days of receipt of an adverse agency decision, the applicant/employee must inform the Department of his or her intent to appeal by filing Formal Request for Hearing (a DCYF #016) with the Department's Hearing Officer.
   a. The applicant/employee must attach a copy of his/her disqualifying information report, which identifies the specific disqualifying offense(s).
   b. The applicant/employee shall provide evidence that he or she has not been arrested and/or convicted of any Level 1 offense.
2. The Department's Administrative Hearing Officer reviews the materials submitted on behalf of the applicant/employee and conducts the appeal process and provides a written decision in accordance with timeframes and procedures established in ***DCYF Policy 100.0055, Complaints and Hearings***.
   a. If the applicant/employee is unable to present evidence that he or she has not been arrested and/or convicted of a Level 1 offense, the Hearing Officer shall uphold the denial, termination or revocation and notify the applicant, employer and DCYF Licensing, if applicable.
   b. If the applicant/employee has presented evidence that he or she has not been arrested and/or convicted of a Level 1 offense, the Hearing Officer shall overturn the rejection based on disqualifying information and notify the applicant, employee and DCYF Licensing, if applicable.

B. Level 2 Offenses - If an individual is disqualified for the arrest and/or conviction for any Level 2 Offense (refer to the attached ***Criminal Records Checks Addendum, Disqualifying Information***), that individual shall have a right to appeal the denial or revocation of a license/certification or the denial or termination of employment for the purpose of demonstrating his or her long standing record of excellence in child care.

1. Within thirty (30) days of receipt of an adverse agency decision, the applicant/employee must inform the Department of his or her intent to appeal by filing Formal Request for Hearing (DCYF #016) with the Department's Hearing Officer.
   a. The applicant/employee must attach a copy of his/her disqualifying information report, which identifies the specific disqualifying offense(s).
   b. The applicant/employee must provide written references attesting to the applicant's long standing record of excellence in child care. Such references must be from individuals who are qualified by virtue of education and/or experience to testify to the abilities of the applicant/employee. Such individuals would include:
      i. Licensed child care providers
      ii. Current or previous child care professionals
      iii. Other professionals with credentials that would enable them to effectively judge the applicant's qualifications in providing child care

2. The Department's Administrative Hearing Officer reviews the materials submitted on behalf of the applicant/employee and conducts the appeal process and provides a written decision in accordance with timeframes and procedures established in ***DCYF Policy 100.0055, Complaints and Hearings***.
   a. If the applicant/employee has not demonstrated a record of excellence in child care sufficient to warrant disregard of the otherwise disqualifying information, the Hearing Officer shall uphold the denial, termination or revocation and notify the applicant, employer and DCYF Licensing, if applicable.
   b. If the applicant/employee has demonstrated a record of excellence in child care, the Hearing Officer shall overturn the rejection based on disqualifying information and notify the applicant, employee and DCYF Licensing, if applicable.

STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES
Criminal Records Checks - Addendum

Disqualifying Information

The arrest and conviction* or arrest pending disposition for one of the criminal offenses listed below or for any offense, which involves elements of proof that are substantially similar to the offenses listed below, disqualifies an individual from serving in a child caring capacity in a program or service operated by or for DCYF and/or requiring licensure or certification by DCYF or residing in a household wherein such a program or service is provided or from owing or operating any such program or service or from serving as a DCYF employee, intern, volunteer or consultant or from functioning in any other capacity subject to a statewide or nationwide criminal background check in accordance with federal and/or state law or DCYF rule.

* For purposes of this protocol, "conviction" means a judgment of conviction entered by a court subsequent to a finding of guilty. Further, any case where a defendant has entered a plea of nolo contendere and has received a sentence that includes a fine and/or a period of incarceration shall constitute a conviction. In addition, any instance where the defendant has entered a plea of nolo contendere and has received a sentence of only probation shall constitute a conviction while the probationary period is pending.

LEVEL 1 OFFENSES

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual shall have a right to appeal for the purpose of demonstrating that he or she has not been arrested and/or convicted for such an offense.

- Felony Child Abuse or Neglect
- Felony Domestic Violence
- Felony committed against a child
  - 1st Degree Child Molestation
  - 2nd Degree Child Molestation
  - Child Pornography
  - Circulation of obscene publications and shows
  - Sale or exhibition to minor of indecent publications, pictures or articles
  - Child nudity in publication
  - Transportation for Indecent purposes
  - Harboring
  - Prostitution
  - Pandering
  - Deriving support or maintenance from prostitution
- Felony Drug Offense committed <u>less than</u> five (5) years ago
- Felony involving violence
  - Murder
  - Manslaughter
  - Rape
  - 1st Degree Sexual Assault
  - 2nd Degree Sexual Assault
  - Kidnapping
  - Car-jacking
  - 1st Degree Arson
  - 2nd Degree Arson
  - Mayhem
  - Felony Assault committed <u>less than</u> five (5) years ago
  - Felony Battery committed <u>less than</u> five (5) years ago

LEVEL 2 OFFENSES

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual shall have a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care:

- Felony Assault committed over five (5) years ago
- Felony Battery committed over five (5) years ago
- Felony Drug Offense committed over five (5) years ago
- Robbery
- Breaking and Entering
- Burglary
- Illegal Possession of a Firearm
- Misdemeanor Domestic Assault
- 3rd Degree Sexual Assault

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, when the offense does not involve a child, that individual shall have a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care:

- Transportation for Indecent purposes
- Harboring
- Prostitution
- Pandering
- Deriving support or maintenance from prostitution
- Circulation of obscene publications and shows

STATE OF RHODE ISLAND
Department of Children, Youth and Families
Fingerprint Affidavit

Date of Request: _____

Reason for Finger Prints: _____

Applicant: Name: _____

D.O.B.: _____

Address: _____

_____

_____

Results of Criminal Records Check should be sent to: (Enter name and address below.)

_____

_____

_____

_____ _____
Applicant Signature Date

_____ _____
Law Enforcement Agency Representative Signature Date

_____
Law Enforcement Agency

RI DCYF Criminal Records Checks - Disqualifying Information

The arrest and conviction* or arrest pending disposition for one of the criminal offenses listed below or for any offense, which involves elements of proof that are substantially similar to the offenses listed below, disqualifies an individual from serving in a child caring capacity in a program or service operated by or for DCYF and/or requiring licensure or certification by DCYF or residing in a household wherein such a program or service is provided or from owing or operating any such program or service or from serving as a DCYF employee, intern, volunteer or consultant or from functioning in any other capacity subject to a statewide or nationwide criminal background check in accordance with federal and/or state law or DCYF rule.

* For purposes of this protocol, "conviction" means a judgment of conviction entered by a court subsequent to a finding of guilty. Further, any case where a defendant has entered a plea of nolo contendere and has received a sentence that includes a fine and/or a period of incarceration shall constitute a conviction. In addition, any instance where the defendant has entered a plea of nolo contendere and has received a sentence of only probation shall constitute a conviction while the probationary period is pending.

LEVEL 1 OFFENSES

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual shall have a right to appeal for the purpose of demonstrating that he or she has not been arrested and/or convicted for such an offense.

- Felony Child Abuse or Neglect
- Felony Domestic Violence
- Felony committed against a child
  - 1st Degree Child Molestation
  - 2nd Degree Child Molestation
  - Child Pornography
  - Circulation of obscene publications and shows
  - Sale or exhibition to minor of indecent publications, pictures or articles
  - Child nudity in publication
  - Transportation for Indecent purposes
  - Harboring
  - Prostitution
  - Pandering
  - Deriving support or maintenance from prostitution
- Felony Drug Offense committed less than five (5) years ago
- Felony involving violence
  - Murder
  - Manslaughter
  - Rape
  - 1st Degree Sexual Assault
  - 2nd Degree Sexual Assault
  - Kidnapping
  - Car-jacking
  - 1st Degree Arson
  - 2nd Degree Arson
  - Mayhem
  - Felony Assault committed less than five (5) years ago
  - Felony Battery committed less than five (5) years ago

LEVEL 2 OFFENSES

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual shall have a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care:

- Felony Assault committed over five (5) years ago
- Felony Battery committed over five (5) years ago
- Felony Drug Offense committed over five (5) years ago
- Robbery
- Breaking and Entering
- Burglary
- Illegal Possession of a Firearm
- Misdemeanor Domestic Assault
- 3rd Degree Sexual Assault

If an individual is disqualified for the arrest and/or conviction for any of the following offenses, when the offense does not involve a child, that individual shall have a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care:

- Transportation for Indecent purposes
- Harboring
- Prostitution
- Pandering
- Deriving support or maintenance from prostitution
- Circulation of obscene publications and shows

STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES

Criminal History Affidavit

Applicant's Name: _____

Date of Birth: _____

Address: _____

_____

Have you ever been arrested for or convicted of any offense set forth in DCYF Policy 900.0040, Criminal Records Checks Addendum – Disqualifying Information? ☐ Yes ☐ No

If yes, please explain: _____

_____

_____

I, the undersigned, attest that the information contained in this affidavit is complete and accurate and understand that any false representation may be cause for denial or termination of employment or denial or revocation of licensure or certification. I further agree to apply to the Bureau of Criminal Identification of the State or local Police for a nationwide criminal records check prior to beginning employment. I also understand the Department and/or employer will receive information relating to the results of the criminal records check. I understand if there is a question as to the conviction information, I am entitled to appeal to the FBI. If there is a question as to my denial or termination of employment or denial or revocation of licensure or certification due to the results of the criminal records check, I am entitled to appeal to the DCYF Administrative Hearing Officer.

Applicant Signature: _____ Date: _____

Subscribed and sworn before me on this date _____

_____
Notary Public

STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAIMILIES

Employment History Affidavit

Please list employment history for the past three (3) years in chronological order. If you have not been employed for any period of time during the past three (3) years, please indicate below the dates of unemployment.

_____ _____
Employer Address

_____
From To Occupation Supervisor

_____ _____
Employer Address

_____
From To Occupation Supervisor

_____ _____
Employer Address

_____
From To Occupation Supervisor

_____ _____
Employer Address

_____
From To Occupation Supervisor

I, the undersigned, attest that the information contained in this affidavit is complete and accurate and understand that any false representation may be cause for denial or termination of employment or denial of licensure or certification.

_____ _____
Applicant Date

*Subscribed and sworn to before me _____

_____day of _____

_____
Notary Public