

173-9-03

Background checks: paid direct-care positions: Reviewing reviewing databases (except for the self-employed).

(A) Databases to review: Any time this rule requires a responsible party to review an applicant's (pre-hire) or employee's (post-hire) status in databases, the responsible party shall review the following six databases:

DATABASES TO REVIEW	
SAM	https://www.sam.gov/
OIG	http://exclusions.oig.hhs.gov/
Abuser Registry	https://its.prodapps.dodd.ohio.gov/ABR_Default.aspx
Sex-Offender Search	http://www.icrimewatch.net/index.php?AgencyID=55149&disc=
Offender Search	http://www.drc.ohio.gov/OffenderSearch/Search.aspx
Nurse-Aide Registry	https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx

- (1) The United States general services administration's system for award management.
- (2) The office of inspector general of the United States department of health and human services' list of excluded individuals.
- (3) The department of developmental disabilities' online abuser registry that lists people cited for abuse, neglect, or misappropriation.
- (4) The Ohio attorney general's sex offender and child-victim offender database.
- (5) The department of rehabilitation and correction's database of inmates.
- (6) The department of health's state nurse aide registry. If the applicant or employee does not present proof that he or she has been a resident of Ohio for the five-year period immediately preceding the date of the database review, the responsible party shall conduct a database review of the nurse aide registry in the state or states in which the applicant or employee lived.

(B) When to review databases:

WHEN TO REVIEW DATABASES		
POSITIONS	APPLICANTS (PRE-HIRE)	EMPLOYEES (POST-HIRE)
Ombudsman position	Required	Required
Direct-care position: Only delivers meals	Required	Not required
Direct-care position: Only has access to consumers' <u>or individuals'</u> personal records	Required	Not required
Direct-care position: Only provides a specified once-ever service	Required	Not required
Transportation position: If applying for, or employed by, a county transit system, regional transit authority, or regional transit commission	Not required	Not required
Transportation position: If applying for, or employed by, a provider other than a county transit system, regional transit authority, or regional transit commission, the position is a direct-care position	Required	Required
All direct-care positions not listed above	Required	Required

- (1) Applicants (pre-hire): The responsible party shall review each applicant's (pre-hire) status in the databases before conducting the criminal records check that rule 173-9-04 of the Administrative Code requires for applicants.
- (2) Employees (post-hire): The responsible party shall review each employee's (post-hire) status in the databases before conducting the criminal records

check that rule 173-9-04 of the Administrative Code requires for employees. Because rule 173-9-02 of the Administrative Code does not require criminal records checks on employees (post-hire) in three types of direct-care positions, the responsible party is not required to review databases on employees (post-hire) in the same three types of direct-care positions.

(C) Disqualifying status:

- (1) No responsible party shall hire an applicant or retain an employee if the applicant's or employee's status in the databases reveals the following that one or more of the databases in paragraphs (A)(1) to (A)(5) of this rule lists the applicant or employee or the database in paragraph (A)(6) of this rule lists the applicant or employee as a person who neglected or abused a long-term care facility resident or residential care facility resident or misappropriated such a resident's property.
 - (2) If the responsible party's database reviews reveal that the applicant or employee is disqualified, the responsible party shall inform the applicant or employee of the disqualifying information.
- (D) Referrals from employment services: A responsible party is not required to review the databases if the applicant, or employee of a direct-care position was referred to the responsible party by an employment service that refers applicants to responsible parties to fill full-time, part-time, or temporary direct-care positions if the responsible party obtains copies of records from the employment service that verify that the applicant's or employee's status in the databases does not disqualify him or her.

Effective:

Five Year Review (FYR) Dates: 05/04/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.38, 173.391, 173.392; Sections 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended by the Older Americans Act Reauthorization Act of 2016; 45 C.F.R. 1321.11 (October, 2016 edition).
Rule Amplifies: 173.38; 42 C.F.R. 460.68(a), 460.71(b)(1), 460.71(b)(2) (November 15, 2016).
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