

TO BE RESCINDED

173-9-03

Background checks for paid direct-care positions: 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 databases listed in paragraphs (A)(1) to (A)(7) of this rule. In the following table, ODA listed the web address (URL) on which each database was accessible to the public at the time of this rule's adoption. If a URL listed in the table becomes obsolete, please consult with the government entity publishing the database for an updated URL.

DATABASES TO REVIEW	
SAM	https://www.sam.gov/
OIG	https://exclusions.oig.hhs.gov/
Abuser Registry	https://its.prodapps.dodd.ohio.gov/ABR_Default.aspx
Medicaid	http://medicaid.ohio.gov/provider/EnrollmentandSupport/ProviderExclusionandSuspensionList
Sex-Offender Search	http://www.icrimewatch.net/index.php?AgencyID=55149&disc=
Offender Search	https://appgateway.drc.ohio.gov/OffenderSearch
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, which is maintained pursuant to subpart 9.4 of the federal acquisition regulation.
- (2) The office of inspector general of the United States department of health and human services' list of excluded individuals and entities, which is maintained pursuant to sections 1128 and 1156 of the "Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; or, if using ODM's automated registry check system

(ARCS), the medicare exclusion database which is maintained pursuant to 42 C.F.R. 455.436.

- (3) The department of developmental disabilities' online abuser registry, established under section 5123.52 of the Revised Code, which lists people cited for abuse, neglect, or misappropriation.
- (4) The department of medicaid's online provider exclusion and suspension list.
- (5) The Ohio attorney general's sex offender and child-victim offender database, established under division (A)(1) of section 2950.13 of the Revised Code.
- (6) The department of rehabilitation and correction's database of inmates, established under section 5120.66 of the Revised Code.
- (7) The department of health's state nurse aide registry, established under section 3721.32 of the Revised Code. 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)
Direct-care position: Only delivers meals	Required	Not required
Direct-care position: Only has access to consumers' or individuals' 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,	Not required	Not required

regional transit authority, or regional transit commission		
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)(6) of this rule lists the applicant or employee or the database in paragraph (A)(7) 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: 7/20/2023

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.38, 173.391, 173.392; 42
U.S.C. 3025; 45 C.F.R. 1321.11

Rule Amplifies: 173.38; 42 C.F.R. 460.68, 460.71

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