

TO BE RESCINDED

173-9-04.1 **When to check criminal records, pay fees, and use forms (for the self-employed).**

(A) Database reviews first: The responsible party shall review databases on himself or herself before checking his or her criminal records. If the database reviews disqualify the responsible party, the responsible party shall not conduct a criminal records check. If the database reviews did not disqualify the responsible party, the responsible party shall conduct a criminal records check.

(B) When to check criminal records:

WHEN TO CHECK CRIMINAL RECORDS

POSITION	CHECK BEFORE APPLYING TO BECOME AN ODA-CERTIFIED PROVIDER OR BEFORE BIDDING FOR A PROVIDER AGREEMENT OR SUB-CONTRACT	CHECK AFTER BECOMING AN ODA-CERTIFIED PROVIDER OR AFTER ENTERING INTO A PROVIDER AGREEMENT OR SUB-CONTRACT
Ombudsman position	Required	Required
Direct-care position: Only delivers meals	Required	Not required
Direct-care position: Only has access to consumers' personal records	Required	Not required
Direct-care position: Only provides a specified once-ever service	Required	Not required
Transportation position with a county transit system, regional transit authority, or regional transit commission	Not required	Not required
Transportation position other than a position with 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

START DATES & DEADLINES FOR CHECKING CRIMINAL RECORDS

	START DATE	FIRST DEADLINE AFTER JANUARY 1, 2013	SUBSEQUENT DEADLINES
Before the responsible party applied to become an ODA-certified provider or before the responsible party bid for a provider agreement or sub-contract	Before the responsible party applied to become an ODA-certified provider or before the responsible party bid for a provider agreement or sub-contract	Fingerprinting before ODA certifies the responsible party, before an AAA enters into a provider agreement, before another responsible party enters into a sub-contract, and before the end of the sixty-day period of conditional status (if the responsible party utilized the conditional-status option in rule 173-9-05.1 of the Administrative Code)	Not applicable. (See rows below.)
Five-year schedule if the responsible party became an ODA-certified provider or entered into a provider agreement or sub-contract before 2008	Any time, but only if the database reviews don't disqualify the responsible party	2013 anniversary of certification, agreement, or sub-contract + 30 days	Every 5th-year anniversary of certification, agreement, or sub-contract + 30 days
Five-year schedule if the responsible party became an ODA-certified provider or entered into a provider agreement or sub-contract in 2008 or a later date	Any time, but only if the database reviews don't disqualify the responsible party	First 5th-year anniversary of certification, agreement, or sub-contract + 30 days	Every 5th-year anniversary of certification, agreement, or sub-contract + 30 days

Less-than five-year schedule	Any time, but only if the database reviews don't disqualify the responsible party	No deadline, so long as more frequent than every 5 years	No deadline, so long as more frequent than every 5 years
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- (1) Before applying to become ODA-certified, or before bidding for a provider agreement or sub-contract, the responsible party shall check his or her criminal records.
- (2) After becoming ODA-certified, or after entering into a provider agreement or sub-contract, the responsible party shall check his or her criminal records at least once every five years, unless the responsible party's direct-care position is listed under paragraph (B) of rule 173-9-02 of the Administrative Code:
 - (a) Five-year schedule (pre-2008): If the responsible party became ODA-certified provider or entered into a provider agreement with ODA (or an area agency on aging) before January 1, 2008, the responsible party shall conduct a criminal records check on itself no later than thirty days after the 2013 anniversary of its certification, provider agreement, or sub-contract and no later than thirty days after each anniversary every five years after 2013. If the responsible party serves consumers both as an ODA-certified provider and through a provider agreement, the anniversary date is the anniversary of whichever occurred first: the certification or the agreement. A responsible party that follows this schedule is not required to wait until its anniversary to conduct a criminal records check.
 - (b) Five-year schedule (2008-present): If the responsible party became an ODA-certified provider or entered into a provider agreement with ODA (or an area agency on aging) on or after January 1, 2008, the responsible party shall conduct a criminal records check on itself no later than thirty days after the fifth anniversary of its certification or provider agreement and no later than thirty days after each five-year anniversary. If the responsible party serves consumers both as an ODA-certified provider and through a provider agreement, the anniversary date is the anniversary of whichever occurred first: the certification or the agreement. A responsible party that follows this schedule is not required to wait until its five-year anniversary to conduct a criminal records check.
 - (c) Less-than-five-year schedule: The responsible party may conduct criminal records checks on itself more frequently than every five years. If the responsible party checks more frequently than every five years, the

responsible party is not responsible for conducting criminal records checks according to the five-year schedules.

- (3) Reverification: If a responsible party has obtained criminal records on himself or herself during the past year, the responsible party may request a reverification of the criminal record from BCII. The reverification of the criminal record has the same validity as the criminal records obtained during the past year.
- (C) When to check the FBI's criminal records: If a responsible party has not been a resident of Ohio for the five-year period immediately preceding the date the responsible party must check criminal records, the responsible party shall request that BCII also obtain the FBI's criminal records.
- (D) Investigation fees: The responsible party shall pay BCII the fees that divisions (C)(2) and (C)(3) of section 109.572 of the Revised Code authorize for each criminal records check.
- (E) Forms: Unless the procedures that BCII established in rule 109:5-1-01 of the Administrative Code for providing fingerprint impressions electronically and requesting criminal records electronically, the responsible party shall complete the following two tasks:
- (1) The responsible party shall use the form(s) that BCII requires in division (C)(1) of section 109.572 of the Revised Code.
 - (2) The responsible party shall forward the completed fingerprints and forms to BCII for processing.

Effective:

Five Year Review (FYR) Dates: 10/30/2014

Certification

Date

Promulgated Under:

119.03

Statutory Authority:

173.01, 173.02, 173.381, 173.391, 173.392; Sections 305(a)(1)(C) and 712(a)(5)(D) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11 (October 1, 2014 edition)

Rule Amplifies:

109.572, 173.381

Prior Effective Dates:

173-9-04.1: 04/01/2014. 173-9-04: 01/01/2013.
173-9-01: 03/04/1997 (Emer.), 07/31/1997,
04/17/2003, 01/01/2008, 02/15/2009, 08/11/2011.
173-14-14: 07/11/1991, 12/27/2001, 12/28/2006,
02/15/2009