

5101:2-5-09.1

Background checks for college interns, subcontractors, volunteers, employees, board presidents, officers, administrators and foster caregivers.

(A) Types of background checks:

- (1) Bureau of criminal investigation (BCI) records pursuant to section 2151.86 of the Revised Code.**
- (2) Federal bureau of investigation (FBI) records pursuant to section 2151.86 of the Revised Code. This check is to be completed for all initial checks and optional thereafter.**
- (3) National sex offender registry. The website is located at: <https://www.nsopw.gov/>.**
- (4) Ohio statewide automated child welfare information system (Ohio SACWIS) records for alleged perpetrator.**

(B) If an individual previously resided in a state other than Ohio:

- (1) The agency is to contact any states in which the individual resided in the previous five years to request the information specified in paragraph (A) of this rule.**
- (2) Any information received from other states will be reviewed and considered by the agency as part of the background check review.**

(C) Background checks are to be completed for the following:

- (1) An employee of a private child placing agency (PCPA), private noncustodial agency (PNA) or a local public entity (LPE).**
- (2) A board president, administrator or officer of a PCPA, PNA or LPE.**
- (3) Staff of a residential center operated by a public children services agency (PCSA).**
- (4) A college intern, subcontractor or volunteer.**
- (5) A foster care applicant or caregiver.**
- (6) All household members eighteen years of age or older in a foster care applicant or caregiver's home.**

(D) A PCPA, PNA, residential center operated by a PCSA or LPE is to also conduct a background check of the following for each board president, administrator or officer:

- (1) A certified search of the findings for recovery database. The website is located at: <http://ffr.ohioauditor.gov/>.
- (2) A database review at the federal website known as the system for award management. The website is located at: <https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>.
- (E) The agency may refuse to hire or appoint a person as a board president, administrator or officer as follows:

 - (1) Based solely on the findings of the summary report as described in paragraph (A)(5) of this rule or the results of the search described in paragraph (A)(3) or (A)(4) of this rule.
 - (2) Based on the results of the certified search or database review as described in paragraphs (C)(1) and (C)(2) of this rule.
- (F) Timeframes for completion of background checks.

 - (1) For BCI and FBI records:

 - (a) At application for a foster caregiver and household members.
 - (b) Prior to the first day of employment for board president, administrator, officer or prospective employees of a PCPA, PNA or LPE.
 - (c) Prior to the first day of work for a college intern, subcontractor or volunteer.
 - (d) Every four years from the completed date of the most recent BCI records check for:

 - (i) A foster caregiver, or adult household member in a foster caregiver's home.
 - (ii) A college intern, subcontractor or volunteer.
 - (iii) A board president, administrator, officer, or employee of a PCPA, PNA, residential center operated by a PCSA or LPE.
 - (e) For a minor household member in a foster caregiver's home, within thirty days from when the minor turns eighteen years old and every four years thereafter. The agency may conduct a check sooner than four years after the initial check in order to align the timeframe with the other household members.

(2) For all background checks other than BCI or FBI:

- (a) For a foster caregiver and household members, at application and every four years thereafter.
- (b) Prior to the first day of employment for board president, administrator, officer or prospective employees of a PCPA, PNA, residential center operated by a LPE.
- (c) Prior to the first day of work for a college intern, subcontractor or volunteer.

(G) Process for obtaining a criminal background check. The agency is to:

- (1) Submit fingerprints manually or electronically according to the process established by BCI. Information on how to obtain a background check can be found at <https://www.ohioattorneygeneral.gov/Business/Services-for-Business/WebCheck>.
- (2) Pay to BCI the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted.
- (3) The agency may charge a person subject to a criminal records check, a fee for the costs incurred in obtaining a criminal records check. Pursuant to division (D) of section 2151.86 of the Revised Code, a fee charged by the agency is not to exceed the fee paid by the agency to BCI. If a fee is charged, the agency is to notify the person at the time of initial application of the amount of the fee and that, unless the fee is paid, the person will not be considered for appointment, employment or certification as a foster caregiver.

(H) If an individual fails to complete the full background check determination process:

- (1) The foster care applicant is to be denied certification pursuant to rule 5101:2-5-26 of the Administrative Code.
- (2) The foster caregiver certification is to be revoked pursuant to rule 5101:2-5-26 of the Administrative Code.
- (3) The intern, volunteer, subcontractor, employee, board president, administrator or officer of a residential center operated by a PCSA, PCPA, PNA or LPE is to be denied a position with the agency.

(I) An individual will be ineligible to be a foster caregiver with any agency, or a college intern, subcontractor, volunteer, employee, board president or administrator of a

PCPA, PNA, residential center operated by a PCSA or LPE if any of the following are applicable:

(1) A conviction or guilty plea to an offense listed in division (A)(4) of section 109.572 of the Revised Code, unless the individual meets the rehabilitation criteria in appendix A of this rule for a foster care applicant, a foster caregiver and household members of a foster care applicant or foster caregiver's home or appendix B of this rule for a college intern, subcontractor, volunteer, employee, board president or administrator of a PCPA, PNA, residential center operated by a PCSA or LPE.

(a) Section 109.572 of the Revised Code specifies that this rule applies to records of convictions that have been sealed pursuant to section 2953.32 of the Revised Code.

(b) A conviction of or a plea of guilty to an offense listed in division (A)(4) of section 109.572 of the Revised Code is not prohibitive if the individual has been granted an unconditional pardon for the offense pursuant to Chapter 2967 of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. For purposes of this rule, "unconditional pardon" includes a conditional pardon to which all conditions have been performed or have transpired.

(2) Being registered or obligated to be registered on the national or state sex offender registry or repository.

(J) Ohio SACWIS alleged perpetrator search.

(1) For any college intern, subcontractor, volunteer, employee, board president or administrator of a PCPA, PNA, or residential center operated by a PCSA or LPE, the agency is to conduct an alleged perpetrator search pursuant to section 5103.0310 of the Revised Code. The individual is ineligible if:

(a) They have a substantiated finding within the last ten years.

(b) They have had a child removed from their home in the last ten years pursuant to section 2151.353 of the Revised Code due to a court determination of abuse or neglect caused by that specific person.

(c) While employed or working, they are identified in Ohio SACWIS as the perpetrator for a substantiated finding of child abuse or neglect.

- (2) For any foster caregiver applicant, foster caregiver or any adult household member of an applicant's or caregiver's household, the agency is to conduct an alleged perpetrator search pursuant to section 5103.18 of the Revised Code.
- (K) The recommending agency is to evaluate if the foster home should continue to be recommended for certification or be recommended for denial or revocation of certification when a person who is certified as a foster caregiver, or is a household member in a certified caregiver's home is convicted of any offense listed in appendix A of this rule.
- (1) The evaluation is to begin within five days of the agency's knowledge of the person's conviction, be completed within thirty days, and be documented in the foster home's record.
- (2) At a minimum, the provisions of paragraph (L) of this rule is to be considered in the evaluation.
- (3) This requirement is also to be applicable for any adult who resides with a foster caregiver upon conviction of any offense listed in appendix A of this rule.
- (L) The evaluation specified by paragraph (K) of this rule is to include, at a minimum:
- (1) Whether there are children currently placed in the foster home and the impact of disruption on the children if moved.
- (2) Whether rehabilitation of the individual had to be considered for initial certification.
- (3) The length of time of certification prior to this conviction.
- (4) The factors outlined in appendix C of this rule.
- (M) Rehabilitation criteria for criminal offenses. Unless specifically disqualified in appendix A or appendix B to this rule:
- (1) A foster caregiver or an adult resident of the foster caregiver's household is to meet all of the rehabilitation conditions in appendix C of this rule.
- (2) An employee, board president or administrator of a PCPA, PNA, residential center operated by a PCSA or LPE is to meet all of the rehabilitation conditions in appendix D of this rule.
- (N) It is the individual's duty to provide written verification that the rehabilitation criteria specified in paragraph (L) of this rule are met. If the individual fails to provide proof

or if the agency determines that the proof offered by the individual is inconclusive or insufficient, the person is not to be certified as a foster caregiver or hired by the agency. Any doubt is to be resolved in favor of protecting the children the agency serves.

Replaces: 5101:2-5-09.1

Effective: 4/1/2024

Five Year Review (FYR) Dates: 04/01/2029

CERTIFIED ELECTRONICALLY

Certification

03/11/2024

Date

Promulgated Under: 119.03
Statutory Authority: 2151.86, 5103.03, 5103.0310, 5103.037, 5103.18
Rule Amplifies: 109.572, 2151.86 , 5103.0310, 5153.11, 5153.111
Prior Effective Dates: 09/18/1996, 01/01/2003, 08/14/2008, 04/01/2010,
10/01/2011, 07/07/2014, 03/01/2017, 06/15/2020