



Greetings Adult BH HCBS Providers with OMH as the host agency,

Following the 3/29/19 [Provider Update webinar](#) and subsequent distribution of the [Terms and Conditions for Adult BH HCBS](#), we have received a number of questions regarding pre-employment checks. This correspondence is to provide you with some information and resources about the process.

As promised, included you will find the following forms to perform the pre-employment checks required as a provider of Adult BH HCBS:

- Staff Exclusion List (SEL) AP designation form – to perform the required check of the SEL *Page 2*
- Justice Center’s Criminal Background Check (CBC) system AP designation form – to request, receive and review criminal history information *Page 3*
- Information for obtaining a Resource ID # (RID) if your agency does not already have one. This is required to perform checks of the Statewide Central Register. *Page 4*
- Statewide Central Register Liaison sign up form (aka. the Statewide Register for Child Abuse and Maltreatment) – to perform checks of the SCR (application begins on page 8) Employment categories to be used – *F* and *Z*. *Page 5*
- Part 550 – The OMH regulation for the background check requirement *Page 18*

Please note - the two AP forms get sent directly to the Justice Center’s CBC unit at cbc@justicecenter.ny.gov, the request for RID # goes to ocfs.sm.conn_app@ocfs.state.ny.us and the SCR liaison form gets faxed to **518-486-3424**.

Thank you.



**Justice Center for the
Protection of People
with Special Needs**

**Authorized Person
Designation/Notarized Sworn
Statement Form
Justice Center
Criminal Background Check
(CBC) Unit**

Fax: 518-549-0464
Email: cbc@JusticeCenter.ny.gov

REQUIRED

Provider Name: _____
Agency Code: _____
Address: _____
City: _____ NY Zip _____
Telephone Number: _____
Fax: _____

State Oversight Agency: OMH
 OPWDD OCFS
(Please check all that apply)

INSTRUCTIONS:

1. Please complete all Parts of this form, including top right corner and check the State agency for which you are a provider.
2. The Authorized Person must sign Part 1 in the presence of a Notary Public. The Director of the Provider Agency must sign Part 2 and date this form where indicated.
3. Please submit one form for each Authorized Person.
4. Please return the completed form to the Justice Center.

Part 1. Authorized Person (Please Print)

Last Name:		First Name:		M. I.:
Business Email Address:			Business Phone #	
			Title:	
Business Address (Street):				
City:		State:		Zip:

I understand that my access to the Justice Center CBC system is granted for the sole purpose of performing responsibilities related to the request, receipt and review of criminal history summaries pursuant to relevant statutory authority. I agree that such requests will be made solely to carry out those specific responsibilities. I further understand that the results of the criminal history summaries will only be used and disseminated for purposes authorized by law, and I agree to abide by the confidentiality requirements set forth in Executive Law §845-b, Labor Law §203-d and Article 6-A of the Public Officers Law. I agree that I will not access the Justice Center CBC System from a publicly accessible computer. I understand that publicly accessible computers include but are not limited to: hotel business center computers, convention center computers, public library computers, public kiosk computers, etc.

By submitting a request for a CBC through the Justice Center's CBC system on behalf of the above-named Provider Agency, I hereby attest to the following:

1. I am a duly Authorized Person for the Provider Agency. As such, I am authorized to request, receive, and review criminal history information for this Provider Agency in accordance with the relevant statutory provisions.
2. Each request for a CBC will be made by a person authorized to make such a request and each request entry will identify the subject individual by his or her name, and will identify the subject individual as either a prospective operator, employee, volunteer or consultant of the Provider Agency who will have regular and substantial unsupervised or unrestricted physical contact with the Provider Agency's clients. For each request entry, the specific duties of the subject individual which permit the Provider Agency to request a CBC will be identified.
3. Each subject individual will be informed that the Provider Agency is authorized to request a CBC.
4. Each subject individual will be informed of the right to obtain, review and, if necessary, seek correction of his/her criminal history information under regulations established by the NYS Division of Criminal Justice Services and the Federal Bureau of Investigation. The signed, informed consent of each subject individual will be obtained prior to requesting a check by the CBC Unit and maintained by the Provider Agency.
5. The results of each check of the CBC will be used by the Provider Agency solely for the purposes authorized by law.
6. Upon information and belief, the Provider Agency, its agents, and employees are aware of and will abide by the confidentiality requirements of Executive Law §845-b, Labor Law §203-d and Article 6-A of the Public Officers Law.

Signature of Authorized Person	Date:
Acknowledgment to be completed by a Notary Public: State of _____ County of _____ On this _____ day of _____, 20____, before me personally appeared _____ To me known and known to me to be the same person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed same. _____ Notary Public (Please sign, affix stamp and include expiration date.)	

Part 2. Director Signature (DIRECTOR OF THE PROVIDER AGENCY MUST APPROVE DESIGNATION OF AUTHORIZED PERSON BY SIGNING BELOW)

I hereby designate the person identified in Part 1 of this form to serve as the Authorized Person for the Provider Agency noted on this form. I also request access and appropriate permission for this person to use the Justice Center CBC system in support of this responsibility.

Name (Please Print)	Title:
Signature:	Date:

Clear Form

PrintForm



**Authorized Person
Designation Form
Justice Center Staff Exclusion List
(SEL) Check**

**NYS Justice Center for the
Protection of People with Special
Needs
Criminal Background Check Unit
Fax: 518-549-0464
Email: cbc@JusticeCenter.ny.gov**

The purpose of this form is to designate the Authorized Person for your agency who will be permitted to request, on behalf of the Provider Agency, a check of the Staff Exclusion List (SEL) pursuant to relevant statutory authority. By signing this form, each signatory attests that all requests made by the Authorized Person for a check of the SEL by the Justice Center on each prospective employee, volunteer, consultant or natural person operator ("subject individual") will be made in conformance with the law.

INSTRUCTIONS:

1. Please complete all Parts of this form.
2. The Authorized Person must sign Part 1 and the Director of the Provider Agency must sign Part 2 and date this form where indicated, one form for each Authorized Person.
3. Please return the completed form to the Justice Center. The form may be scanned and emailed, or faxed to the Justice Center's CBC Unit at the contact information above.

Part 1. Authorized Person

Last Name:	First Name:	M. I.:
Email Address:		Business Phone
Full Provider Name: (Please avoid abbreviations)		
Business Address:		
City:	State:	Zip:
I understand that my designation as an Authorized Person is granted for the sole purpose of performing responsibilities related to a request for a check of the SEL pursuant to relevant statutory authority. I agree that such requests will be made solely to carry out those specific responsibilities. I further understand that the results of a SEL check will only be used and disseminated for purposes authorized by law, and I agree to abide by the confidentiality requirements set forth in Social Services Law §496, Labor Law §203-d and Article 6-A of the Public Officers Law.		
Signature of Authorized Person:		Date:

Part 2. Provider Approval (DIRECTOR OF THE PROVIDER AGENCY MUST APPROVE DESIGNATION OF AUTHORIZED PERSON BY SIGNING BELOW)

I hereby designate the person identified in Part 1 of this form to serve as the Authorized Person for the Provider as noted on this form. I also request access and appropriate permission for this person to request a check of the SEL in support of this responsibility.

Name	Title:
Director's Signature:	
Date:	

Part 3. Provider State Oversight Agency Information

Office of Mental Health (OMH) Agency Code:	
Office for People With Developmental Disability (OPWDD) Corp ID:	
Office of Children and Family Services (OCFS) Agency ID:	
Department of Health (DOH) ACF or Camp ID:	
State Education Department (SED) Provider ID (aka BEDS Code) :	8000000
Office of Alcoholism and Substance Abuse Services (OASAS) Provider ID:	

Directions to obtain a Resource ID (RID#):

Send an e-mail request to the Office of Children and Family Services at **ocfs.sm.conn_app@ocfs.state.ny.us**.

Please include the following information:

- Organization name
- Organization address
- Organization telephone number
- Name of contact person within your organization
- Telephone number of contact person

New York Statewide Central Register **On-Line Clearance System (OCS) Non-DCC**

PLEASE NOTE THAT THE OCS REQUIRES THE USE OF WINDOWS OPERATING SYSTEM AND INTERNET EXPLORER VERSION 6.0 OR HIGHER.

Please Note:

If you do not have a NYS Drivers License or a Non Driver's License ID you cannot be the agency liaison for OCS. Meaning, the Agency Liaison who registers for access to the Online Clearance System must have a NYS Drivers License or a Non Driver's License ID Card.

After completing and faxing the attached "Registration" form you will receive a User Name and Password. Access to the Online Clearance System is as follows:

- Open internet explorer on your desk top.
- Enter the following URL into the search pane:

<https://ws04.nyenet.state.ny.us/>
- You will be brought to the OCS Log-in Page where you will enter your User name and Password.
- From there you can follow the data entry instructions attached (OCS - Screen Shots – Located at the end of this document).

On-Line Clearance System (OCS) **Registration Packet**

Terms and Conditions

Purpose:

- The **Online Clearance System (OCS)** is a web-based application that supports the mandate under Section 424-a of the Social Services Law to inquire of the Statewide Central Register (SCR) as to the existence of any reports of child abuse or maltreatment indicated against an applicant prior to employment, certification, or licensure. The **OCS** allows electronic submission of Database Check requests to the SCR, thereby replacing the existing paper LDSS-3370 form currently in use.
- Electronic Submission will eliminate time needed for postal delivery of hard copy of the LDSS-3370 form.
- Electronic Submission will also eliminate handwriting on the LDSS-3370 form, and therefore eliminate problems of illegibility. As such, the need for your agency to handle “send back” paper LDSS-3370 forms returned by the SCR due to illegibility is eliminated. This conserves time and resources for your agency and the SCR.
- The OCS format guides the agency worker and/or applicant step-by-step through the entry process and immediately identifies any errors or omissions on the form, thus, successfully eliminating the potential “send back” of the LDSS-3370 form due to information omission or other error. This provides another opportunity for the agency and the SCR to conserve time and resources.
- **Electronic submission of the database check provides immediate acknowledgement of that submission. Additionally, the generation and mailing of hard copy of the Database Check response letters will be replaced with an electronic notification from the SCR. This further reduces the overall processing time. The electronic notification provides the same information regarding the applicant an agency receives now in response to a Database Check.**
- The OCS will maintain a record of all Database Check requests submitted by your agency and the SCR’s response for 6 months. This does not eliminate the need for your agency to track and maintain SCR database check submissions and the SCR response letters as required by licensing or regulatory standards.

Legal and Regulatory References:

There are no changes in your legal mandate to submit database checks under Section 424-a of the Social Services Law.

Although the paper LDSS-3370 form will no longer be mailed to the SCR for processing, there are no programmatic changes or new data requirements associated with the Database Check process. All of the information currently required on the paper LDSS-3370 is also required in the OCS. The current LDSS-3370 form (Revision Date 4/2011- Located at the end of this document), including instructions, is attached for your reference.

Submitting Request to SCR:

After you have entered all the required Information you must click **“Submit”** for the information to be submitted to the SCR. See Below:

The screenshot shows a PowerPoint slide titled "Conclusion Page – Once all required information has been entered the request can be submitted. Only the 'Fee' Categories will display the Pay Type and Pay # Fields." The slide content includes a screenshot of the New York State Statewide Central Register Database Check Request Site. The site header reads "NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES STATEWIDE CENTRAL REGISTER DATABASE CHECK REQUEST SITE". The page shows a request ID of 27903725 and a category of "Prospective Day Care Employee: Application for DBA Group Family Day Care Request".

Step 1 - Review All Information
Review and verify all information is complete and accurate. If any information is missing, or if corrections are necessary, select the Edit button next to the corresponding section.

Applicant/Household Members

First Name	Last Name	DOB	Gender	Phone No.	DBA Admin	First
SMITH	JENNIFER	05/13/1985	F			
SMITH	JANE	07/23/1988	F			

Address History for SAMANTHA SMITH

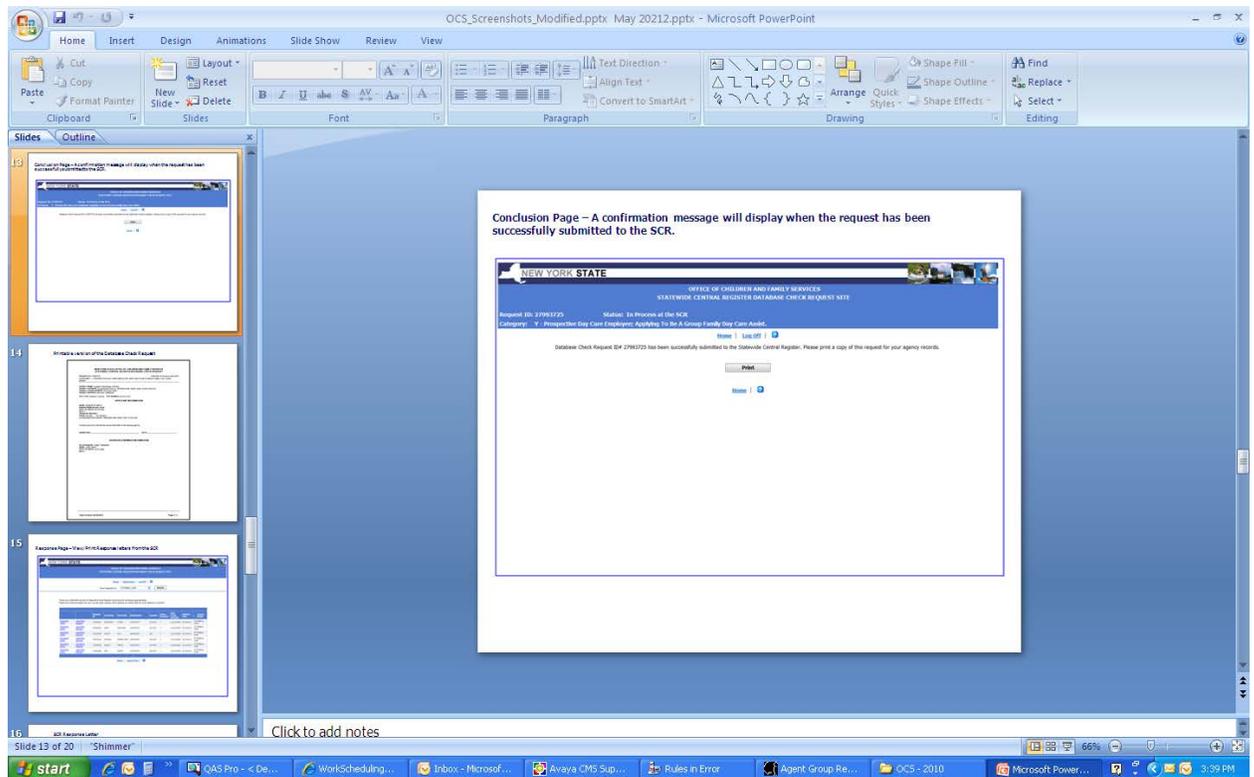
Street Address	City	State	Zip	Country	From	To
33 WASHINGTON STREET	ROSELAND	NY	12244	USA	05/21/85	05/20/12

Pay Type - AGENCY CHECK **Pay #** - 902232323

Step 2 - Important! Read the Following Terms & Conditions
By selecting Submit I affirm that the applicant has given prior consent for and has provided all of the information contained in the Database Check Request and that the applicant has been advised that their information will be sent to the Statewide Central Register.

Buttons: Submit, Print, < Back, Exit This Request

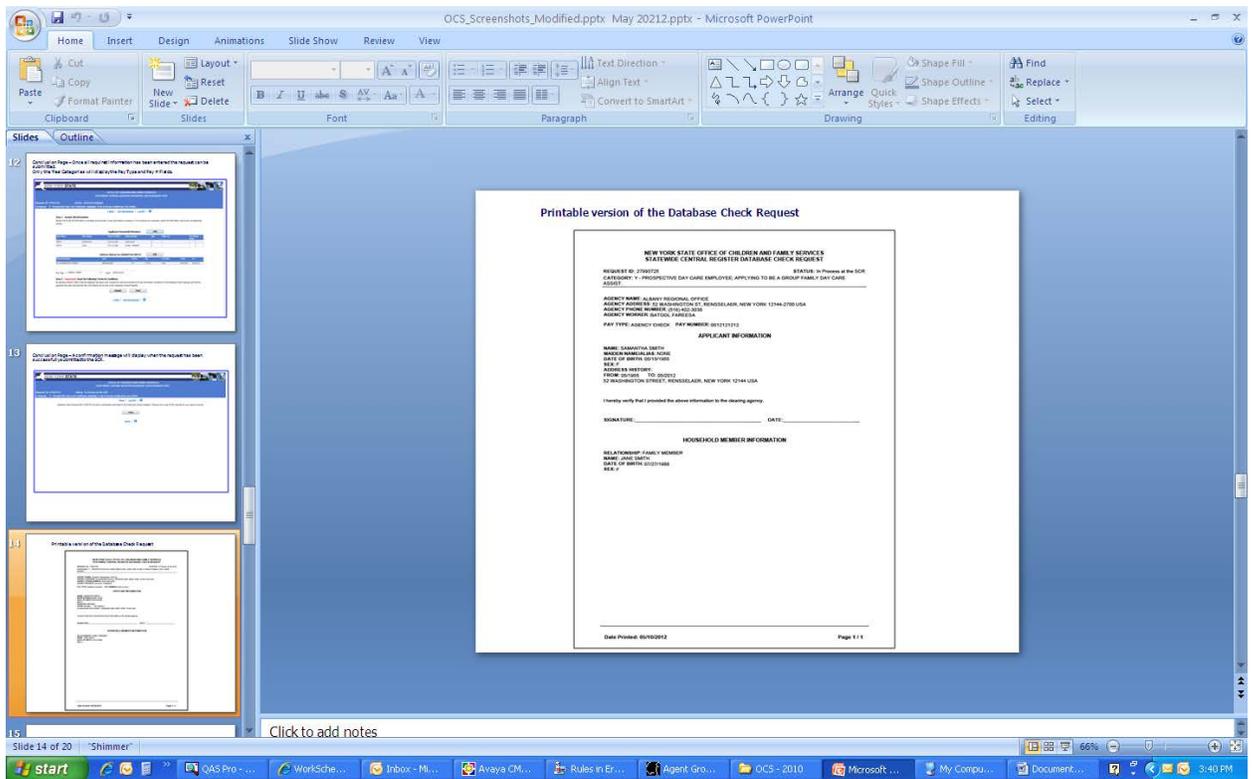
You will then get a confirmation that the request has been submitted to the SCR for completion. See Below.



Processing “Fee” Categories in OCS:

- Effective 4/15/11 the SCR is implementing a recent amendment to Section 424-a(1)(f) of the Social Services Law, which sets forth Database Check “Fee” requirements. The change in the law now requires that applicants for employment (Category F) and prospective day care providers and applicants for employment in day care programs (Categories N, P, Q & Y) be charged a \$25 fee for any database checks conducted through the SCR. These Categories are described on the enclosed Registration Sheet. The OCS screen shots located at the end of this document show required fields for “fees”. **Please send your check/money order to New York State Office of Children and Family Services, Capital View Office Park, 52 Washington Street, South Building Room 204, Bureau of Financial Operations/Accounting and Revenue Collection, Rensselaer, NY 12144.**

- Please write the Request ID and Applicant Name and attached a copy of the page on check or money order. See below:



Scope:

Submission of ALL Database Check (Non-Court) requests will be electronic via the OCS system. All notifications or response letters from the SCR will be received electronically as well.

Employee Access:

There are two ways to enter a Database Check request in the **Online Clearance System**.

- Agency workers who have been given the security rights to access the **Online Clearance System** can enter the Database Check information directly from a personal computer (PC) located in your agency and then electronically submit the request to the SCR for processing.
- OR**
- The agency workers who have been given the security right to access the **Online Clearance System** can log on to the application from a PC located in your agency and then require that the applicant/prospective employee data enter the Database Check information. Upon completion of the entry by the applicant, the agency worker would review the information for accuracy and electronically submit the Database Check to the SCR for processing.

Records Retention/Agency Responsibility:

The information in the **OCS** will be stored for six (6) months from the completion date. Information regarding Database Checks submitted by your agency will be purged from **OCS** through an automated quarterly record retention program. All Database Checks that have been in a “completed” Status for six months or greater will be expunged during the quarterly run. Completed status means that the SCR has completed the processing of the form including sending the electronic notification to the agency. If your agency is required to maintain its own copy of the letters from the SCR, they will need to be saved to the agency computer system (not the **OCS**), or printed, by your agency prior to the purge.

Reporting Problems:

Any technical problems such as system errors, login problems or for programmatic assistance regarding Database Check requests in the **OCS** please contact the SCR at Ocfs.sm.OCS.user.assistance or 518-474-1567 between the hours of 9AM and 5PM on Monday through Friday. SCR contacts available to assist you are as follows:

Mary Hamilton	(Ext.17898)
Krystle Prentice	(Ext.19586)
Tara Hughgill	(Ext. 17899)
Sharon Imam	(Ext. 17921)
Wendy Reeves	(Ext. 17791)

Password Resets:

For any Password Resets please contact the Help Desk at 1-800-697-1323.

Non Disclosure Agreement:

The **Online Clearance System** can only be used in accordance with Section 424-a of the Social Services Law (see attached) where a licensing or provider agency requests a database check pursuant to that statute.

Upon completion of the registration process, OCFS will create an account for the Agency Liaison designated on the “Agency Information Registration Sheet” (attached). The Agency Liaison will have responsibility for granting access to other agency workers who need access to the **Online Clearance System**. Access must only be granted on a “need to know” basis. Only when it is determined that an employee’s job duties requires access to the **Online Clearance System** should the employee be granted access. The Agency Liaison is also responsible for terminating access when a worker leaves the agency or has a shift in job responsibility that no longer requires that they access the system.

Important Data Entry Reminder:

Please take caution when data entering information into the Online Clearance System. A data entry error in the name of the applicant or person age 18 or older living in the home, DOB or address may result in an inaccurate search of the CONNECTIONS Database. This may result in clearing an individual who may have an indicated case. Please make sure you are entering all the family member's and addresses listed on the 3370. Before saving and submitting the request please review the entire request for accuracy. Once this request has been submitted to the SCR the request is frozen and cannot be changed by the agency or the SCR. All Current address information needs to be typed out completely. Please DO NOT ABBREVIATE the Street, City or State.

Statewide Central Register Online Clearance System

Agency Information Registration Sheet

Please complete and fax to the attention of Wendy Reeves at 518-486-3424

Agency Name: _____

Agency Address: _____

Agency Liaison Name (as displayed on NYS License): _____

Agency Liaison Email Address: _____

Agency Liaison Telephone Number: _____

Agency Liaison HSEN USER ID: _____ (If not applicable leave blank).

Liaison Personal Information

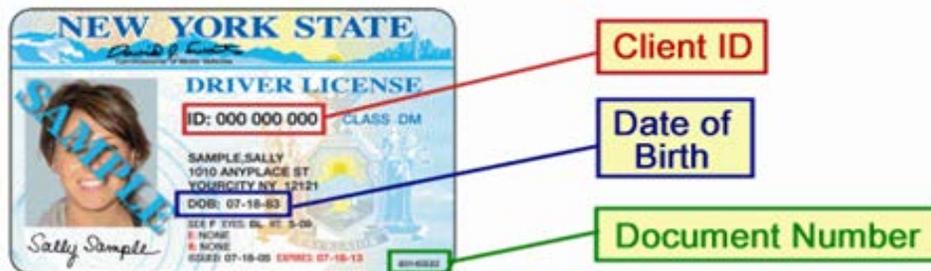
Liaison's Date of Birth: _____

Liaison NYS Drivers License Number: _____

Liaison NYS License Document Number: _____

Liaison's Last 4 digits of SSN #: _____

Liaisons Zip Code (from NYS Drivers License): _____



Please record the appropriate Identification Number associated with your agency. For guidance please use the attached document titled “Organizations Entitled to Conduct Database Checks under Section 424-a of the Social Services Law.” A valid number is required. Please provide only ONE of the following:

Resource Identification Number (RID#) _____

Child Care Facility System Number (CCFS#) _____

Child Care Activities Tracking System (CCAT#): _____

Categories: (Please check all that apply)

See Guidelines in attached “Organizations Entitled to Conduct Database Checks under Section 424-a of the Social Services Law” for assistance. All Categories with an “*” Require payment of a \$25.00 fee effective 4/15/11.

<input type="checkbox"/> D	Local DSS prospective employee
<input type="checkbox"/> E	Current employee (previously cleared by your agency for this position).
<input type="checkbox"/> F	Prospective Employee*
<input type="checkbox"/> M	Applicant to be a director of a summer, overnight, day or traveling day camp.
<input type="checkbox"/> N	Applicant for a license to operate a day care center. *
<input type="checkbox"/> P	Family day care provider applicant*
<input type="checkbox"/> Q	Group family day care provider applicant. *
<input type="checkbox"/> R	Kinship foster parent applicant.
<input type="checkbox"/> S	Provider of Goods/Services
<input type="checkbox"/> W	Foster parent applicant, Family care home provider applicant.
<input type="checkbox"/> X	Applicant to be adoptive parents. (Submit only if there is an application pending with the agency.)
<input type="checkbox"/> Y	Prospective <u>Day Care</u> employee, * Group family day care <u>assistant applicant</u>.*
<input type="checkbox"/> Z	Prospective volunteer/Prospective consultant.

Please check this box if you want the ability to Manage Workers

Liaison Signature: _____ Date: _____
 Director Signature: _____ Date: _____

Your Signature indicates you have read and understood the terms and conditions of the attached Registration Packet.

(4/2011)

**ORGANIZATIONS ENTITLED TO CONDUCT DATABASE CHECKS UNDER SECTION
424-A OF THE SOCIAL SERVICES LAW**

Child day care centers, including head start programs, and school-age child care programs licensed or registered by the NYS Office of Children and Family Services (OCFS)

If you operate a day care center or school-age child care program licensed or registered by OCFS, please use the CCFS number assigned to your program. If you have questions about your CCFS number, please contact your day care licensing representative. (If you do not know the name of your licensing representative or do not know how to contact your licensing representative, please see the attached list that shows contact information for the OCFS day care regional offices. Please contact the appropriate regional office for the county in which your day care program is located.)

Child day care centers, including head start programs, licensed by the New York City Department of Health and Mental Hygiene

If you operate a day care center licensed by the New York City Department of Health and Mental Hygiene and do not have a CCFS number or RID, please record "DOH" in the Agency Code field and use your Child Care Activities tracking system number (CCAT#), which can be located on your current license issued by the New York City Department of Health and Mental Hygiene.

The following organizations are authorized to clear and must submit an LDSS-3370 with a valid Resource Id (RID) Number for the Database Check to be processed by the SCR:

Authorized Agencies must clear prospective foster parents, prospective adoptive parents, and persons age 18 or older who reside in the homes of those applying to be foster parents or adoptive parents.

Adoption Agencies from states other than New York may clear prospective adoptive parents where such agencies will place into New York for adoption a foreign born eligible orphan child with non-quota immigrant status under applicable federal law.

The New York State Department of Health and county departments of health must clear applicants to operate *summer camps* in New York.

Child care resource and referral programs may conduct database checks on persons to be included in a list of substitute child day care caregivers where the child care resource and referral program maintains such a list.

The New York State Office of Mental Health (OMH) or New York State Office for People with Developmental Disabilities (OPWDD) must clear applicants to operate a family care home which will serve children.

OCFS must clear applicants to be providers of family or group family day care, assistants to such providers, and persons age 18 or older who reside in homes where family or group family day care will be provided. These clearance requests are submitted by ***OCFS Regional Office staff to the SCR.***

Family and group family day care homes have no authority to conduct their own database checks and should not submit database check forms directly to the SCR.

OCFS must clear applicants to receive, board or keep children in foster homes or family homes certified or approved by *OCFS*, and persons age 18 or older who reside in such homes. These clearance requests are submitted by the ***Division of Juvenile Justice and Opportunities for Youth (DJJOY) to the SCR.***

OCFS must clear applicants to operate day care centers and school-age child care programs where such centers and programs will be operated by individuals. These clearance requests are submitted by ***OCFS Regional Office staff to the SCR.*** Individuals proposing to operate day care centers and school-age child care programs may not submit clearance requests concerning themselves directly to the SCR. (Individuals proposing to operate day care centers and school-age child care programs will submit clearance requests concerning their staff directly to the SCR; see below.)

The entities listed below must submit database checks on prospective employees of and providers of goods and services to residential facilities operated by the program where such employees and providers have the potential for regular and substantial contact with children cared for by the center or program. There must be a valid Resource Id (RID) Number for the Database Check to be processed by the SCR.

Residential facilities for children operated by authorized agencies and certified by OCFS

Juvenile detention facilities certified by OCFS

Runaway and homeless youth shelters and programs certified by OCFS

Residential schools operated, supervised or approved by the State Education Department

Early intervention services programs established pursuant to Section 2540 of the Public Health Law

Preschool services programs established pursuant to Section 4410 of the Education Law

Special Act school districts

Programs and facilities licensed by the New York State Office of Alcoholism and Substance Abuse Services

Residential facilities and non-residential programs licensed or operated by the OMH or OPWDD

Residential facilities operated by OCFS (Clearance requests will be submitted through DJJOY)

If you operate any of the program types listed above other than a day care program and do not have a RID, please send an electronic e-mail request to the Office of Children and Family Services at ocfs.sm.conn_app@ocfs.state.ny.us. Please include the following information so we can determine if issuance of a RID is appropriate: The name, address and telephone number of your organization and a contact person within your organization;

1. A statement of which of the categories listed above your organization falls under;
2. The name and telephone number of a contact person in your licensing agency who can verify the status of your organization; and

3. A copy of your license, certification or other official documentation of approval by the relevant State or local agency.

If you do not fall within any of the categories described above but believe you are legally authorized to access the database check process, please contact your licensing agency listed below for assistance in determining if your organization may legally access the database check process. If your licensing agency asserts you are legally entitled to access the database check processes of the SCR, please obtain from your licensing agency a written explanation of the legal rationale for that view and provide that to the above e-mail address with your request for a RID.

Office of Children and Family Services

Capital View Office Park, 52 Washington Street, Rensselaer, New York 12144-2796 (518) 473-7793

New York State Office of Mental Health

44 Holland Avenue, Albany, New York 12229 1-800-597-8481 (toll-free)

New York State Office for People with Developmental Disabilities

44 Holland Avenue, Albany, New York 12229 (518) 473-9689 / 1-866-94NYSDD (1-866-946-9733)

New York State Education Department

89 Washington Avenue, Albany, New York 12234 Phone: (518) 474-3852

New York State Office of Alcoholism and Substance Abuse Services

Albany Office, 1450 Western Avenue, Albany, NY 12203-3526 Phone: 518-485-1768

Daycare Centers and School-Age Child Care Programs should contact the appropriate licensing agency listed below for assistance regarding the correct CCFS/RID number to use on database check forms they submit to the State Central Register.

ALBANY REGIONAL OFFICE –

52 Washington Street, Room 309 S, Rensselaer, NY 12144 (518) 402-3038

Serving the counties of: Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington

BUFFALO REGIONAL OFFICE

295 Main Street, Room 545, Buffalo, NY 14203 (716) 847-3828

Serving the counties of: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming

LONG ISLAND REGIONAL OFFICE (For Day care issues only)

Courthouse Corporate Center, 320 Carlton Avenue, Suite 4000, Central Islip, NY 11722
(631) 342-7100

Serving the counties of: Nassau and Suffolk

NEW YORK CITY REGIONAL OFFICE

80 Maiden Lane, New York, NY 10038 (212)-383-1834

Serving the New York City Boroughs: Bronx, Brooklyn (Kings), Manhattan, Queens, and Staten Island (Richmond)

ROCHESTER REGIONAL OFFICE

259 Monroe Avenue, 3rd Floor, Monroe Square, Rochester, NY 14607 (585) 238-8531

Serving the counties of: Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates

SYRACUSE REGIONAL OFFICE

The Atrium, 100 S. Salina Street, Suite 350, Syracuse, NY 13202 (315) 423-1202

Serving the counties of: Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins

SPRING VALLEY REGIONAL OFFICE (Yonkers Regional Office)

11 Perlman Drive, Spring Valley, NY 10977 (845) 708-2498

Serving the counties of: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester

NYC Department of Health – Family Daycare and Group Family Daycare Programs

Bronx	(718) 579-7771
Brooklyn/Staten Island	(718) 222-6323
Manhattan	(212) 676-2444
Queens	(718) 393-6257

NYC Department of Health – School Age Childcare Programs in all Boroughs

(212) 676-2444



3370 - Revised
4-2011.docx



OCS_Screenshots_M
odified.pptx May 2012

14 CRR-NY 550 NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 14. DEPARTMENT OF MENTAL HYGIENE CHAPTER XIII. OFFICE OF MENTAL HEALTH

550.1 Background and intent

(a) Section 31.35 of the Mental Hygiene Law imposes the requirement of criminal history record checks on each prospective operator, employee, or volunteer of certain mental health treatment providers who will have regular and substantial unsupervised or unrestricted physical contact with the clients of such providers.

(b) This legislation was intended to enable providers of services to persons with mental illness to secure appropriate and properly trained individuals to staff their facilities and programs, by verifying criminal history information received from individuals seeking employment or volunteering their services.

(c) Pursuant to chapter 501 of the Laws of 2012, section 553 of the Executive Law was subsequently enacted to give the Justice Center for the Protection of People with Special Needs the authority to review and evaluate the criminal history information for any person applying to be an employee, volunteer, or consultant for whom a criminal background check is required by law as a condition of employment at any facilities or provider agencies licensed, operated, or certified by the Office of Mental Health (excluding Mental Hygiene Law article 10 secure treatment units and programs operated in facilities under the jurisdiction of the Department of Corrections and Community Supervision). A technical correction to chapter 501 was made via chapter 83 of the Laws of 2013, to change the reference to the Office of Mental Health to the Justice Center in Mental Hygiene Law section 31.35.

(d) The purpose of this Part is to establish standards and procedures for criminal history record checks that must be followed by mental health treatment providers that are subject to the provisions of Mental Hygiene Law section 31.35.

550.2 Applicability

(a) This Part shall apply to every provider of mental health services which is licensed by, contracts with, or is otherwise approved by the Office of Mental Health to provide services, except:

- (1)** a facility or program that is directly operated by the Office of Mental Health;
- (2)** a hospital, as defined in section 2801 of the New York State Public Health Law, that is licensed by the Department of Health; or
- (3)** a professional licensed pursuant to title 8 of the New York State Education Law, who does not have employees or volunteers who will have regular and substantial unsupervised or unrestricted contact with the clients of such provider.

(b) This Part shall also apply to every applicant to be an operator of a provider of mental health services that meets the criteria set forth in subdivision (a) of this section.

(c) The Justice Center for the Protection of People with Special Needs was given authority, pursuant to chapter 501 of the Laws of 2012, and chapter 83 of the Laws of 2013 to review and evaluate the criminal history information for any person applying to be an employee, volunteer, or consultant for whom a criminal background check is required by law as a condition of employment at any facilities or provider agencies under which it has jurisdiction pursuant to section 488 of the Social Services Law. Reviews and evaluations for such providers will be conducted in accordance with 14 NYCRR Part 701.

550.3 Legal base

- (a)** Section 7.09 of the Mental Hygiene Law grants the commissioner of the Office of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.
- (b)** Section 31.35 of the Mental Hygiene Law provides that each provider of mental health services subject to its requirements must request, through the Office of Mental Health, a criminal history background check for each prospective operator, employee, or volunteer of such provider of services.
- (c)** Subdivision (12) of section 845-b of the Executive Law requires the Office of Mental Health to promulgate rules and regulations necessary to implement criminal history information requests.

550.4 Definitions

- (a)** *Authorized person* means the individual(s) designated by a provider of services who is authorized to request, receive and review criminal history information in accordance with this Part.
- (b)** *Commissioner* means the commissioner of the New York State Office of Mental Health.
- (c)** *Criminal history information, criminal background, or criminal history record* means a record of pending criminal charges, criminal convictions which are not vacated or reversed, and certificates filed pursuant to subdivision (2) of section 705 of the Correction Law, and which the New York State Division of Criminal Justice Services is authorized to maintain pursuant to subdivision (6) of section 837 of the Executive Law. For purposes of this Part, on or after March 12, 2007, *criminal history information, criminal background, or criminal history record* shall also include information from the Federal Bureau of Investigation as a result of a national criminal history record check.
- (d)** *Designated fingerprinting entity* means an entity designated by the Office of Mental Health to fingerprint persons who are required to have criminal background checks in accordance with section 31.35 of the Mental Hygiene Law, section 845-b of the Executive Law, and this Part.
- (e)** *Division* means the New York State Division of Criminal Justice Services.
- (f)** *Justice Center* means the Justice Center for the Protection of People with Special Needs established pursuant to article 20 of the Executive Law.
- (g)** *Natural person* means a human being, as distinguished from an artificial person created by law (e.g., a corporation).
- (h)** *Office* means the New York State Office of Mental Health.
- (i)** *Operator* means any natural person with an ownership interest in a provider of services.
- (j)** *Prospective employee* means any person to be employed or utilized by the provider of services, (including those persons employed by a contract agency if the subject contract is approved, funded, or is otherwise authorized by the Office of Mental Health), who will have the potential for regular and substantial unsupervised or unrestricted contact with clients.
- (k)** *Prospective volunteer* means a person who has applied to participate in activities with or for the benefit of persons of a provider of services, under the supervision of staff or management of such provider, for which he or she receives no salary or remuneration, who will have the potential for regular and substantial unsupervised or unrestricted contact with clients.
- (l)** *Provider of services* means a provider of services, as defined in section 1.03 of the Mental Hygiene Law, which is expressly authorized to request a check of criminal history information pursuant to section 845-b of the Executive Law, section 31.35 of the Mental Hygiene Law, and provided further, that such term also includes the term *facility or provider agency* as defined in section 488 of the Social Services Law, with respect to providers under the jurisdiction of the Office of Mental Health.
- (m)** *Register of Substantiated Category One Cases of Abuse and Neglect* means the statewide register established pursuant to section 495 of the Executive Law maintained by the Justice Center for the Protection of People with Special Needs.

(n) *Subject individual* means a person with whom a provider of services is authorized to request a check of criminal history information pursuant to section 845-b of the Executive Law, section 31.35 of the Mental Hygiene Law, and this Part.

550.5 Submission of fingerprints by providers of services

(a) The Justice Center shall perform a criminal history record check regarding any prospective operator, employee, or volunteer of a provider of services which is required to comply with section 31.35 of the Mental Hygiene Law. For purposes of this Part, the inclusion of a national criminal history background check shall apply to all prospective operators, employees, or volunteers whose applications are submitted to the Justice Center for a criminal history background check on or after March 12, 2007.

(b) Any provider of services subject to compliance with this Part which is issued an operating certificate on or after April 1, 2005 shall require a criminal history record check of natural persons with an ownership interest in such providers, provided, however, that for purposes of this Part, the inclusion of a national criminal history background check of natural persons with such an ownership interest shall apply to all providers of service issued an operating certificate on or after March 12, 2007. Any change in the ownership interest of any provider on or after April 1, 2005, for which a new natural person becomes or joins as an operator shall require a criminal history record check of such new natural person or persons, which shall be performed in concert with the prior approval process established in section 551.6 of this Title, or the application process established in section 87.3 of this Title, as applicable. For purposes of this Part, the inclusion of a national criminal history background check of new or additional natural person operators shall apply to all such changes in ownership proposed on or after March 12, 2007.

(c) Criminal history record reviews required in accordance with this Part shall apply only to persons who are prospective employees or volunteers, as defined in this Part, as identified by the provider of services.

(d) The Justice Center shall supply every provider of services that is subject to the provisions of this Part with information identifying the designated fingerprinting entities that may be utilized to facilitate compliance with this Part.

(e) Fingerprint submission process.

(1) Prior to requesting a criminal background check for any prospective employee or volunteer, as defined in section 550.4 of this Part, a provider of services subject to this Part shall check the Justice Center's Register of Substantiated Category One Cases of Abuse or Neglect. If the applicant's name appears on the register, the provider of services shall not process the application. If the applicant's name does not appear on the register, the provider of services may proceed with the fingerprint submission process in accordance with the provisions of this section.

(2) As part of a provider of services' initial application for a license to provide mental health services in accordance with article 31 of the Mental Hygiene Law, its authorized person(s) shall be responsible for furnishing the Justice Center with the fingerprints of the prospective operator of the provider, as well as those of any prospective employee or volunteer of the provider of services, as defined in section 550.4 of this Part.

(3) As part of a provider of services' renewal of a license to provide mental health services in accordance with article 31 of the Mental Hygiene Law, its authorized person(s) shall be responsible for furnishing the Justice Center with fingerprints of any operator who joined the organization subsequent to April 1, 2005 and who previously did not have a criminal history record check performed.

(4) Every provider of services subject to this Part shall be responsible for obtaining a set of fingerprints for each prospective employee or volunteer of the provider of services, as defined

in section 550.4 of this Part, and its authorized person(s) shall submit same to the Justice Center for a criminal background check.

(5) Prior to requesting a criminal background check for any prospective employee or volunteer, as defined in section 550.4 of this Part, a provider of services subject to this Part shall obtain, and maintain, documentation demonstrating that:

- (i)** the provider of services has informed the prospective employee or volunteer, in writing, that such provider is authorized, and in some cases, required, to request a check of his or her criminal history information and review the results of such check in accordance with section 845-b of the Executive Law;
- (ii)** the provider of services has informed the prospective employee or volunteer that he or she has the right to obtain, review, and seek correction of his or her criminal history record in accordance with regulations and procedures of the division and the Federal Bureau of Investigation;
- (iii)** the provider of services has obtained the signed, informed consent of the prospective employee or volunteer on a form supplied by the Justice Center which indicates that such person:
 - (a)** has been informed of the right and procedures necessary to obtain, review, and seek correction of his or her criminal history information;
 - (b)** has been informed of the reason for the request for his or her criminal history information;
 - (c)** has been informed that the criminal history information sought will include both a New York State and, on or after March 12, 2007, a national criminal history information check;
 - (d)** has consented to such request for a report of his or her criminal history information, with respect to New York State and, on or after March 12, 2007, national criminal history information;
 - (e)** has supplied a current mailing or home address on the form;
 - (f)** has or has not, to the best of his or her knowledge, ever been convicted of a crime in New York State or any other jurisdiction; and
 - (g)** has or has not, to the best of his or her knowledge, any felony or misdemeanor charges currently pending against him or her that remain unresolved.

(6) A provider of services requesting a criminal background check pursuant to this section shall do so by completing and submitting a form developed and provided by the Justice Center, in consultation with the division. The form shall be completed by the authorized person, shall be submitted to the Justice Center and maintained thereby pursuant to an agreement with the division, and shall include a sworn statement from the authorized person, in the form and format prescribed by the Justice Center, which attests:

- (i)** that the authorized person shall identify the name of each person for whom a criminal record history check is being requested, and attests that each such person is either a prospective operator, employee, or volunteer of the provider of services, and, as such, the person is a subject individual, as defined in section 550.4 of this Part;
- (ii)** that the authorized person shall identify the specific duties which qualify the provider of services to request a check of the subject individual's criminal history information;
- (iii)** that the results of the criminal history information check will be used by the provider of services solely for the purposes authorized by law; and
- (iv)** that the provider of services, its agents, and employees are aware of and will abide by the confidentiality requirements and all other provisions of chapter 575 of the Laws of 2004.

(f) A licensed or otherwise approved provider of services may temporarily approve a prospective employee or volunteer while the results of the criminal history record check are pending, but shall not allow such person to have unsupervised physical contact with clients during such time.

(1) For purposes of this Part, *unsupervised physical contact* shall mean in-person, face to face communication or interaction with clients, or the reasonable opportunity for such communication or interaction, while not at all times in the reasonable physical proximity of another person, who is employed or under contract with the provider of services and who:

(i) has management or oversight authority over the prospective employee or volunteer;
or

(ii) has had at least six months of experience as an employee of the provider of services and has been deemed by such provider to be qualified to provide adequate oversight of temporarily approved prospective employees or volunteers.

(2) Such provider must establish policies and procedures to implement the provisions of this subdivision. Such policies and procedures shall address the need for supervision to monitor the activities of the temporarily approved prospective employee or volunteer in order to ensure the health, safety, and welfare of clients, taking into consideration the nature of the environment (e.g., physical plant considerations), staffing patterns, employee responsibilities, and the characteristics of clients, and must include provisions which:

(i) ensure that temporarily approved prospective employees or volunteers who are to be assigned personal care activities which require privacy for people receiving services (e.g., bathing, dressing and toileting), are supervised in accordance with paragraph (1) of this subdivision, and that the individual designated to supervise such temporarily approved prospective employee or volunteer is always present in the same room as such prospective employee or volunteer at all times while such personal care activities are occurring;

(ii) prevent any person with a conviction or pending charge of one or more of the following from being temporarily approved, provided that the provider of services has been previously informed by the prospective employee or volunteer in the application process, or by the office prior to issuance of its determination, of such conviction or pending charge:

(a) a felony sex offense;

(b) a felony within the past 10 years involving violence;

(c) endangering the welfare of an incompetent or physically disabled person pursuant to section 260.00, 260.25, 260.32 or 260.34 of the Penal Law; or

(d) on or after March 12, 2007, any comparable offense in any other jurisdiction;
and

(iii) provide that, in cases where the temporarily approved prospective employee or volunteer has a pending felony charge other than as specified in subparagraph (ii) of this paragraph, or any pending misdemeanor charge, the provider of services must document its reasons for granting temporary approval, including an explanation as to why such action will not place clients at risk of harm, provided that the provider of services has been previously informed by the prospective employee or volunteer in the application process, or by the office prior to issuance of its determination, of such conviction or pending charge.

550.6 Criminal history review

(a) After reviewing a criminal history record of an individual who is subject to a criminal history record check pursuant to this section, the office and the provider of services shall take the following actions:

(1) Applicant to be a natural person operator of a new provider of services after April 1, 2005; or a new natural person operator of an existing provider after April 1, 2005.

(i) Where an applicant to be an operator of a new provider of services, or an applicant to be a new operator of an existing provider of services, has no criminal history, the office shall promptly resume its review of the application in accordance with the provisions of Part 551 or Part 87 of this Title, as applicable.

(ii) Where the criminal history record of an applicant to be an operator of a new provider of services, or an applicant to be a new operator of an existing provider of services, reveals any of the following, the Justice Center shall deny the application unless it determines, in its discretion, that approval of the application will not in any way jeopardize the health, safety or welfare of clients in the facility or program:

(a) a felony conviction at any time for a sex offense;

(b) a felony conviction within the past 10 years involving violence;

(c) a conviction for endangering the welfare of an incompetent or physically disabled person pursuant to section 260.25 of the Penal Law or, for applicants to be an operator of a new provider of services or a new operator of an existing provider that has been submitted on or after June 30, 2013, a conviction of section 260.00, 260.25, 260.32 or 260.34 of the Penal Law; or

(d) any comparable offense in any other jurisdiction.

(iii) Where the criminal history record of an applicant to be an operator of a new provider of services, or an applicant to be a new operator of an existing provider of services, reveals a conviction for any crime other than one set forth in subparagraph (ii) of this paragraph, the office may, consistent with article 23-A of the Correction Law, deny the application.

(iv) Where the criminal history record of an applicant to be an operator of a new provider of services, or an applicant to be a new operator of an existing provider of services, reveals a charge for any felony or, for applications made on or after March 12, 2007, any comparable offense in any other jurisdiction, the office shall hold the application in abeyance until the charge is finally resolved.

(v) Where the criminal history record of an applicant to be an operator of a new provider of services, or an applicant to be a new operator of an existing provider of services, reveals a charge for any misdemeanor or, for applications made on or after March 12, 2007, any comparable offense in any other jurisdiction, the office may hold the application in abeyance until the charge is finally resolved.

(2) Applicant to be an employee or volunteer.

(i) Where a prospective employee or volunteer of a provider of services has no criminal history, the Justice Center shall promptly advise the provider of services that it shall not issue a denial for employment or volunteer service and is not directing the provider of services to issue a denial.

(ii) Where the criminal history record of a prospective employee or volunteer of a provider of services reveals any of the following, the Justice Center shall direct the provider to deny employment of or authorization to provide services by such person unless the Justice Center determines, in its discretion, that approval of the application will not in any way jeopardize the health, safety or welfare of clients in the facility or program:

(a) a felony conviction at any time for a sex offense;

(b) a felony conviction within the past 10 years involving violence;

(c) a conviction for endangering the welfare of an incompetent or physically disabled person pursuant to section 260.25 of the Penal Law or, for applications

submitted on or after June 30, 2013, a conviction of section 260.00, 260.25, 260.32 or 260.34 of the Penal Law; or

(d) any comparable offense in any other jurisdiction.

(iii) The Justice Center shall provide a summary of the criminal history record along with such notification provided, however, that with respect to information obtained from the Federal Bureau of Investigation as a result of a national criminal history record check, only information authorized for disclosure under applicable Federal laws shall be transmitted to the provider.

(iv) In cases where the Justice Center does not issue a denial, or does not direct the provider of services to issue a denial, the provider of services may act on the application in its own discretion, consistent with all applicable laws and regulations.

(v) Where the criminal history record of a prospective employee or volunteer of a provider of services reveals a conviction for any crime other than one set forth in subparagraph (1)(ii) of this subdivision, the Justice Center may, consistent with article 23-A of the Correction Law, direct the provider to deny employment/authorization to provide services.

(a) The Justice Center shall provide a summary of the criminal history record along with such notification provided, however, that with respect to information obtained from the Federal Bureau of Investigation as a result of a national criminal history record check, only information authorized for disclosure under applicable Federal laws shall be transmitted to the provider.

(b) In cases where the Justice Center does not issue a denial, or does not direct the provider of services to issue a denial, the provider of services may act on the application on its own discretion, consistent with all applicable laws and regulations.

(vi) Where the criminal history record of a prospective employee or volunteer of a provider of services reveals a charge for any felony or any comparable offense in any other jurisdiction, the Justice Center shall hold the application in abeyance until the charge is finally resolved.

(vii) Where the criminal history record of a prospective employee or volunteer of a provider of services reveals a charge for any misdemeanor or any comparable offense in any other jurisdiction, the Justice Center may hold the application in abeyance until the charge is finally resolved.

(b) Prior to making a determination to deny an application pursuant to subdivision (a) of this section, the office shall afford the prospective employee or volunteer an opportunity to explain in writing, within 10 calendar days from the date the notification was mailed, why the application should not be denied. The opportunity for an explanation shall be sent non-electronically, in a manner of mailing this is capable of verifying the date of mailing. For prospective operators and new operators of existing providers of service, this opportunity may, at the discretion of the office, be afforded in the application or certification renewal materials for such operators required to be submitted to the office.

(c) Where the office directs a provider of services to deny an application of a prospective employee or volunteer, or terminate a temporarily approved prospective employee or volunteer, based on the criminal history record, the provider of services must notify such person that such criminal history record is the basis of the denial. Such notification must advise the prospective employee or volunteer that a copy of the summary of the criminal history record provided by the office to the provider is available from the provider upon written request by the prospective employee or volunteer.

(d) Documentation and confidentiality requirements.

(1) Only the authorized person or his or her designee and the relevant subject party shall have access to criminal history information received by a provider of services. However, criminal

history information may be disclosed by the authorized person to other parties who are directly participating in any decision with regard to such subject party, to which this information is relevant provided, however, that with respect to information obtained from the Federal Bureau of Investigation as a result of a national criminal history record check, only information authorized for disclosure under applicable Federal laws shall be transmitted to the provider.

(2) The authorized person and any other party to whom such criminal history is disclosed shall keep this information strictly confidential.

(3) Any party who willfully permits the release of any confidential criminal history information obtained from a criminal background check pursuant to this section to parties not authorized to receive same in accordance with section 845-b of the Executive Law shall be guilty of a misdemeanor.

550.7 Notification of criminal charges or convictions incurred subsequent to employment/volunteer service

(a) Upon receiving notification from the division that there is a pending criminal action or proceeding, or conviction, with regard to an employee, volunteer, or operator, the Justice Center shall promptly notify the authorized person of a provider of services of the allegation or new conviction.

(b) Upon receiving notification from the Justice Center of the pending criminal action or proceeding, or conviction, the provider of services shall take any and all appropriate action to ensure that the health, safety, and welfare of its clients are protected. Such action or actions shall be documented. In cases involving pending criminal actions or proceedings against employees or volunteers, it shall be the responsibility of the provider of services to monitor the outcome of such proceedings if the employee or volunteer remains in service with the provider.

550.8 Responsibilities of providers of services.

(a) Recordkeeping.

(1) Each provider of services subject to the provisions of this Part shall establish, maintain, and keep current, a record of:

(i) a current roster of employees and list of staffing assignments;

(ii) a current roster of volunteers;

(iii) names of all persons for whom a request for a criminal background history was submitted to the Justice Center, identifying whether the person was applying for an employment or volunteer position;

(iv) for each such name identified, a copy of his or her signed informed consent form required pursuant to section 550.5 of this Part, and the results of the criminal background history and determination of the office with regard to the employment or volunteer service of the individual; and

(v) a record identifying whether such individual was hired or permitted to engage in volunteer services, what position he or she holds, and any limitations placed on such employment or service.

(2) Such record shall be maintained in a manner that ensures the security of the information contained therein, but which also assures the office of immediate and unrestricted access to such information upon its request, for the purpose of monitoring compliance with this Part.

(b) Notifications.

A provider of services must immediately, but no later than within 14 days after the event, inform the Justice Center, and document that such notification occurred, when:

- (1) any prospective employee or volunteer who is subject to criminal history record review in accordance with this section has withdrawn the application or is no longer being considered for the position for which the person applied; or
- (2) a hiring decision has been made with respect to any prospective employee or volunteer who was subject to, and underwent, a criminal history record review in accordance with this section; and/or
- (3) any employee or volunteer who was subject to, and underwent, a criminal history record review in accordance with this section is no longer employed by or volunteering at the program or facility.

(c) Retention and disposal of information.

- (1) Each provider of services subject to the provisions of this Part shall maintain information necessary to demonstrate compliance with this Part, as set forth in subdivision (a) of this section, for at least six years after which the person ceases to be a subject individual, as defined in section 550.4 of this Part (*i.e.*, the person is no longer employed in, or volunteers as, a position that involves regular and substantial contact with clients), unless otherwise directed by the Justice Center.
- (2) If directed to do so by the Justice Center, a provider of services subject to this Part shall dispose of the summary of the criminal history information and/or any other information related to criminal background checks in accordance with such direction.
- (3) Disposal of the criminal history information and Justice Center determinations shall be performed in a manner that ensures the confidentiality of the information.

(d) Policies and procedures.

Each provider of services subject to the provisions of this Part shall have policies and procedures designed to implement the provisions of this Part. Amendment of existing personnel and volunteer policies and procedures to reflect these new requirements may be deemed sufficient compliance with this subdivision.

(e) Requests by the Justice Center.

Each provider of services subject to the provisions of this Part shall make information available to the Justice Center as necessary to fulfill its statutory obligations as set forth in section 553 of the Executive Law and subdivision 6 of section 490 of the Social Services Law.