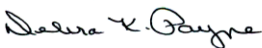
 <p>POLICIES AND PROCEDURES</p> <p>State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 10.1.2	Page 1 of 5
	Effective Date: April 27, 2018	
	Distribution: A	
Policy Type: Administrative	Supersedes: 10.1.2 (10/22/13)	
Approved by:  Debra K. Payne, Commissioner	Last Review or Revision: April 25, 2018	
Subject: BACKGROUND CHECKS FOR DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES (DIDD) EMPLOYEES, CONTRACT WORKERS AND VOLUNTEERS		

- I. **AUTHORITY:** Tennessee Code Annotated (TCA) 4-3-2708; TCA 33-1-302(a)(3); TCA 33-1-303(3); TCA 33-1-305; TCA 33-2-1201; TCA 68-11-1001, *et seq.*; 42 U.S.C. 1320a-7; 42 U.S.C. 5119c(8).

- II. **PURPOSE:** The purpose of this policy is to ensure that background checks are conducted on all prospective Department of Intellectual and Developmental Disabilities (hereinafter "DIDD" or "Department") employees, contract workers and volunteers who will have direct contact with, or direct responsibility for, people supported.

- III. **APPLICATION:** This policy applies to DIDD staff, contract workers and volunteers who have direct contact with, or direct responsibility for, people supported.

- IV. **DEFINITIONS:**
 - A. **Background Check** shall mean the process of researching and compiling information regarding criminal convictions of an individual.

 - B. **Background Investigation Qualifying Report** shall mean the form used by the DIDD Employee Relations Officer to track the review of the background check by the Director of Human Resource and the Office of General Counsel.

 - C. **Commissioner** shall mean the Commissioner of DIDD or his or her designee.

 - D. **Contract worker** shall mean a person who is contracted with the Department or employed by or subcontracted with a company which is contracted with the Department.

 - E. **Criminal Conviction** shall mean a finding of guilty by a court of law for a criminal offense.

 - F. **DIDD Employee Relations Officer** shall mean the individual within the DIDD Office of Human Resources who manages employee relations. For purposes of this policy, the Employee Relations Officer will serve as the point person between DIDD and Tennessee Bureau of Investigation (TBI) and will be responsible for the ensuring all background checks are reviewed and processed by the Department.

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- G. **DIDD Office of Human Resources** shall mean the office within the Department responsible for handling personnel and human resources matters.
- H. **Direct Contact With** shall mean the administration or performance of personal care duties or assistance with activities of daily living.
- I. **Direct Responsibility For** shall mean supervisory authority or responsibility for either the person supported or staff having direct contact with, a person supported.
- J. **Employee** shall mean any person working for DIDD on a full time or part-time basis as a paid employee of the State of Tennessee. Nothing in this definition or in this policy shall be construed to confer upon a person not employed by the State of Tennessee benefits of State employment nor upon the Department or the State of Tennessee legal liability or responsibility for the acts or omissions of a non-employee.
- K. **Intern** shall mean an advanced student or graduate in a professional field gaining supervised practical experience in a profession or occupation. Interns shall not be paid or otherwise compensated by the Department.
- L. **Nationwide Criminal Background Check** shall mean a criminal history background check using the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification.
- M. **Natural Support** shall mean supports that enhance people's feelings of belonging and facilitate a safety net for them. Natural supports are chosen by the person, and the relationship is voluntary, mutual, and typically long term. Designation of an individual as a natural support by the person provides confirmation of the importance of the relationship to the person.
- N. **Prospective employee** shall mean someone who has applied for a job with the department but has not yet been hired.
- O. **State Employment Application Form** shall mean a document used by the State to establish an applicant's qualifications for employment.
- P. **Tennessee Bureau of Investigation (TBI)** shall mean the criminal investigative arm of the State of Tennessee.
- Q. **Volunteer** shall mean a person who is eighteen (18) years or age or older, who provides services to the Department where the person has unsupervised direct contact with or direct responsibility for a person supported, or to persons served by

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the Department, without compensation. Natural supports, visitors or interns are not considered volunteers.

- V. **POLICY:** All DIDD employees and prospective employees, contract workers and volunteers whose duties include or will include direct contact with, or direct responsibility for, persons supported by DIDD shall be subject to background check for the purpose of confirming that they do not have a history of criminal convictions that could pose a safety risk for persons supported by the Department. The Department reserves the right to run subsequent background checks as determined necessary by the Department.

VI. **PROCEDURES:**

- A. To assist the Department in determining the suitability of a person for volunteer services or employment and verify the accuracy of information submitted in support of an application to work for the department, any person who applies to work for the department as an employee, or any volunteer whose function would include unsupervised direct contact with or direct responsibility for persons supported, the prospective employee, contract worker, or volunteer shall:
1. Agree to the release of all investigative records about the person from any source, including federal, state and local governments; and
 2. Supply a fingerprint sample for the conduct of a criminal background investigation by the Tennessee Bureau of Investigations (TBI). If no disqualifying record is identified, the bureau shall send the fingerprints to the Federal Bureau of Investigations (FBI)¹ for a national criminal history record check.
- B. Performance of Background Checks
1. Criminal Records: Criminal background checks of prospective employees, contract workers or volunteers shall be conducted prior to commencement of work. In no event shall a person have direct contact with a person supported unless and until the criminal background check has been conducted and results returned.
 2. The process for obtaining or conducting background checks required or authorized by this policy shall be in accordance with all applicable Equal Employment Opportunity Commission (EEOC) rules and guidance documents and with procedures established and administered by the Department's

¹ The TBI uses the criminal history record check system maintained by the FBI. Therefore the statutory provision to send the fingerprints to the FBI is satisfied through the TBI fingerprint criminal background check.

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Office of Human Resources. Results of background checks shall be maintained in a manner specified by the DIDD Director of Human Resources.

3. The cost of any background check conducted pursuant to this policy shall be paid by DIDD.

C. Review of Findings from Background Checks

Review of criminal background checks shall be performed under the following procedures.

1. All background check results from the TBI shall be sent to the DIDD Human Resources Office. All background check results shall be reviewed initially by the DIDD Employee Relations Officer. If there are no convictions, the results shall be forwarded to the appropriate DIDD regional human resource office.
2. If the background check results show a conviction or fail to list a final disposition of charges then the results shall be forwarded to the DIDD Director of Human Resources.
3. The DIDD Director of Human Resources or designee and/or the DIDD General Counsel or designee will obtain any additional information that may be needed, including a final disposition of charges and/or a statement from the prospective employee or volunteer regarding the circumstances surrounding the conviction.
4. The DIDD Director of Human Resources or designee and the DIDD General Counsel or designee will review the results and determine whether or not an approval will be granted.
5. Documentation of the review and disposition will be noted on the Background Investigation Qualifying Report DIDD-6019.
6. The Background Investigation Qualifying Report DIDD-6019 and criminal background check results shall be sent to the DIDD Employee Relations Officer who will notify the appropriate regional human resource office of the disposition.

VII. **CQL STANDARD(S):** 1g, 1h

VIII. **REVISION HISTORY:** April 25, 2018

IX. **TENNCARE APPROVAL:** N/A

X. **ATTACHMENTS:**

- A. Authorization For Release of Information DIDD-6018

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B. Background Investigation Qualifying Report DIDD - 6019