

Abuse and Background Checks

302 Child Protection Registry Checks for Persons Working in Health Care Facilities, Public Schools, Private Schools, and Youth Camps

1.0 Legal Base

The legal base for these regulations is in 11 **Del.C.** §8563 and 31 **Del.C.** §309.

2.0 Purpose

The overall purpose of these regulations is to protect the "vulnerable" population in health care facilities, public schools, private schools, and youth camps. Therefore, persons seeking employment in a health care facility, public school, or youth camp shall submit to a child protection registry check. People seeking employment in a private school may voluntarily submit to a child protection registry check. A child protection registry search will be conducted to determine if the person is active on the registry as a perpetrator in any substantiated cases of child abuse or neglect.

3.0 Definitions

"Active on the child protection registry" means substantiated by the Division of Family Services for abuse or neglect at level II, III, or IV and reportable to employers.

"Child protection registry" means a central registry of information about persons the Division of Family Services has found cause to believe or a court has substantiated through court adjudication as having committed child abuse or neglect since August 1, 1994. Each substantiated incident shall be designated at one of three levels: II, III, IV.

"Child protection registry check" means a computer search of the child protection registry to determine if a person is active on the registry as a perpetrator in any substantiated case of child abuse or neglect.

"Criminal History Unit" means the Department unit, located in the Division of Family Services that is responsible for completing child protection registry checks.

"Department" means the Department of Services for Children, Youth and Their Families.

"Direct access" means the opportunity to have personal contact with people receiving care or education during the course of one's assigned duties.

"Division of Family Services" means the division that maintains the child protection registry.

"Employer" means any health care facility, higher education institution, public school, private school, or youth camp as defined.

"Health care facility" means any custodial or residential facility where health, nutritional, or personal care is provided for people including nursing homes, hospitals, home health care facilities, and adult day care facilities.

"Higher education institution" means a Delaware college or university that has a teacher preparation program that places candidates into student teaching placements in a Delaware public school.

"Person seeking employment" means any person applying for employment in a public school or public school district, or with an agency that supplies contracted services to students of a public school, or any other person who for any reason has regular direct access to children at any public school, or any person applying for employment in a health care facility or at a youth camp. This definition also includes volunteers, student teachers, and substitute teachers.

"Private School" means a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.

"Public school" means any public school and includes any board of education, school district, charter school, or any person acting as a representative of one.

"Volunteer" means any person who has direct access to people receiving care or education during the course of one's assigned unpaid duties.

"Youth camp" means a child-serving entity having custody or control of one or more school-age children, unattended by parent or guardian, for the purpose of providing a program of recreational, athletic, educational and/or religious instruction or guidance and operates for up to 12 weeks for three or more hours per day, during

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the months of May through September or some portion thereof, or during holiday breaks in the course of a school year, and is operated in a space or location that is not subject to licensing pursuant to 31 Del.C. §344.

4.0 Persons Subject to the Law

Persons seeking employment in a health care facility, public school, or youth camp who have direct access to people receiving care or education are subject to the child protection registry check.

5.0 Employer Responsibilities

- 5.1 No employer who operates a health care facility, public school, or youth camp shall hire any person without requesting a child protection registry check for that person.
- 5.2 The employer shall obtain a completed and signed full release form from each person subject to the law in order to receive the child protection registry check results. The release form is issued by the Department.
- 5.3 Any person hired before the employer receives the results of the child protection registry check, must be informed in writing, and must acknowledge in writing that employment is conditional and depends upon the receipt and evaluation of the child protection registry check results.

6.0 Child Protection Registry Check Process

- 6.1 The person seeking employment completes and signs a release form in order for a child protection registry check to be conducted.
- 6.2 After the employer obtains the signed release and payment is received from the applicant or employer, the Criminal History Unit conducts a child protection registry check to find out if the person is active on the registry as a perpetrator in any substantiated cases of child abuse or neglect.
- 6.3 When the person is not listed in the child protection registry as a perpetrator of child abuse or neglect, the employer is notified of the results.
- 6.4 When the person is listed in the child protection registry as a perpetrator of child abuse or neglect, the employer and person seeking employment are notified of the results.

7.0 Criteria for Ineligibility

No employer who operates a health care facility or youth camp and no public school may hire any person seeking employment if the person is active on the child protection registry at child protection Level III or IV as provided in 16 Del.C. §923.

8.0 Review of Department Records

- 8.1 When a person is listed as active on the child protection registry as a perpetrator, that person will be allowed the opportunity to review the record information maintained by the Division of Family Services.
- 8.2 The following procedures shall be established to permit the review of record information:
 - 8.2.1 The person shall submit a request in writing to the child protection registry substantiation hearing coordinator provided as part of the results of the child protection registry check.
 - 8.2.2 Upon receipt of the request, an appointment shall be scheduled for the person to review the record information.
 - 8.2.3 The review shall take place in the presence of a Division of Family Services staff member.

9.0 Voluntary Child Protection Registry Checks

Any private school, youth camp operated by a private school, or any person or organization whose primary concern is that of child welfare and care may voluntarily submit to having a child protection registry check conducted at such person's or organization's expense according to the Department of Services for Children, Youth and Their Families' procedures.

10.0 Confidentiality

The Department shall ensure that confidentiality regarding case file reviews and the dissemination of information is only given out according to Department policy.

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