

FISCAL OFFICER TRAINING MANUAL

JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS

Business Process and Brief Description of Process:

This section is being included in the Fiscal Officer's Manual, as there are a number of Mental Health departments in which the Fiscal Officer is responsible for compliance with the hiring process as outlined by the NYS Office of Mental Health (OMH), the Office of Alcoholism and Substance Abuse Services (OASAS) and the Office for People with Developmental Disabilities (OPWDD). The Justice Center requirements supersede those established in 2005 by the OMH Criminal History Information Tracking System (CHITS). This outline addresses five (5) areas that are required in regard to employment and hiring and in place as of June 30, 2013:

- STAFF EXCLUSION LIST (SEL)
- CRIMINAL BACKGROUND CHECK (CBC)/FINGERPRINTING
- STATEWIDE CENTRAL REGISTRY
- CODE OF CONDUCT PLEDGE
- RECEIPT OF NY JUSTICE CENTER NOTICE TO MANDATED REPORTERS

Frequency:

Mandated for hiring staff and accepting volunteers who provide OMH, OASAS and OPWDD services to individuals.

Instructions:

STAFF EXCLUSION LIST (SEL):

Providers are required to conduct pre-employment checks before hiring or otherwise utilizing applicants who will work with individuals with special needs. The first process that must be conducted is to request a check of the Staff Exclusion List. The Justice Center is responsible for maintaining a statewide register known as the Staff Exclusion List (SEL) that contains the names of individuals found responsible for serious or repeated acts of abuse and neglect.

OPWDD providers are required to request Mental Hygiene Law 16.34 checks for prospective employees and volunteers in the OPWDD system. Information about the process is available on the [OPWDD website](#).

Guidance for OMH providers on Justice Center implementation issues may be found at the [OMH website](#).

Guidance for OASAS providers on Justice Center implementation issues may be found at the [OASAS website](#) (specifically: <http://www.oasas.ny.gov/JC/CBC>).

The SEL request should only be submitted for applicants that the provider is seriously considering hiring. The provider must await the Justice Center's response to the SEL request before proceeding with the hiring process. If an individual applicant is on the SEL, facilities and provider agencies, as defined in Social Services Law §488(4), and other providers of services in programs licensed or certified by a State Oversight Agency (i.e. OMH, OPWDD, OCFS, OASAS, DOH and SED) may not hire that individual. There is no need to proceed with a criminal background check.

If an applicant is not on the Staff Exclusion List, providers may then request a criminal background check (CBC).

There is an instructional webinar on how to use the SEL Check web form available on the Justice Center website under the Pre-Employment Checks tab and the following link:

<http://www.justicecenter.ny.gov/pre-employment-checks-webinars>

CRIMINAL BACKGROUND CHECK (CBC):

A Criminal Background Check (CBC) 14 [NYCRR](#) Part 701 is a request for information regarding pending criminal charges and criminal convictions of a prospective employee or volunteer who will have regular and substantial unsupervised contact with persons receiving services through a service provider. The Protection of People with Special Needs Act centralizes the criminal history background check process for facilities or service providers overseen by the Office of Mental Health (OMH), the Office of Alcoholism and Substance Abuse Services (OASAS), the Office for People with Developmental Disabilities (OPWDD) and providers of residential programs for children overseen by the Office of Children and Family Services (OCFS) within the Justice Center. Effective June 30, 2013, the Justice Center Criminal Background Check (CBC) Unit will review the criminal history for prospective employees or volunteers and make an initial determination regarding suitability for employment.

OPWDD (in July, 2014) and OMH (in September, 2014) transitioned to MorphoTrust, an online service, to provide the fingerprinting services.

Authorized persons (AP) are designated by the provider/agency to request and review prospective employee information. The AP's complete an application with the NYS Justice Center with approval of their director.

The provider (AP) and applicant will be required to fill out the Applicant Consent Form for Fingerprinting for Justice Center Criminal Background Check (<http://www.justicecenter.ny.gov/investigations-prosecutions/cbc/forms/acf-fjc-cbc>). It must be signed by the applicant and maintained by the provider/agency. The applicant must also bring a copy of the signed consent form to the fingerprinting location. Providers will then register applicants on-line at the MorphoTrust site (www.identogo.com). At the fingerprinting location, the applicant's identification documents will be reviewed, the fingerprints will be scanned and a photo will be taken. The information will be launched by MorphoTrust to the NYS Division of Criminal Justice Services (DCJS) for processing. Upon completion of the fingerprint search process the DCJS response will be delivered electronically to the Justice Center. The Justice Center will then send its determination to the providers' AP of its employment determination.

Guidance about the CBC system is available on the following link:

<http://www.justicecenter.ny.gov/investigations-prosecutions/cbc/cbc-user-guide>

STATEWIDE CENTRAL REGISTRY (SCR):

OMH, OASAS and OPWDD facilities or provider agencies defined in Social Services Law §488(4) are also required to make an inquiry of the Statewide Central Register of Child Abuse and Maltreatment (SCR) through OCFS. Some facilities and provider agencies were already required to conduct an SCR check, but it is a new requirement for others. The New York State Office of Children and Family Services has implemented a Web-based application, the "Online Clearance System," that supports the mandate as to the existence of any indicated reports of child abuse and maltreatment against an applicant prior to employment, certification, or licensure in the child care field. The "Online Clearance System" allows

designated authorized users access to electronically submit Database Check requests to the SCR, thereby replacing the mailing of the paper LDSS-3370 form. SCR responses are delivered to the agency electronically so as to further reduce the overall processing time. To receive a registration packet or obtain more information, one may contact your licensing agency or call the SCR at 518-474-1567.

All records and reports from these procedures are to be maintained in strict confidence; this information can be accessed only by the AP and those individuals directly involved in the hiring of the individual.

See OPWDD guidance documents for further information on SCR checks.

http://www.opwdd.ny.gov/opwdd_resources/incident_management/justice_center/scr-database-check-form

CODE OF CONDUCT PLEDGE:

All employees are required to sign a “[Code of Conduct for Custodians of People with Special Needs](#)” that is a pledge to prevent abuse, neglect or harm toward any person with special needs. The Code of Conduct represents a broad framework that will help staff decide on an appropriate course of action and achieve the goal of helping people with special needs live self-directed, meaningful lives in their communities, free from abuse, neglect and protected from harm. The Code of Conduct is not intended to provide detailed direction of what should be done in every aspect of a custodian's work.

RECEIPT OF NY JUSTICE CENTER NOTICE TO MANDATED REPORTERS:

All employees are required to sign the “[Receipt of New York Justice Center Notice to Mandated Reporters](#)”. This Notice provides Mandated Reporters with an overview of their legal duties under the New York State Protection of People with Special Needs Act to report Abuse, Neglect and Significant Incidents involving vulnerable persons to the Vulnerable Persons' Central Register (VPCR), a 24/7 hotline operated by the Justice Center for the Protection of People with Special Needs (Justice Center).

These signed documents are maintained by the providers and are available for review during an OMH recertification audit.

Resources:

www.justicecenter.ny.gov