



Broward Behavioral Health Coalition, Inc.	
Policy Title: Level 2 Background Screening Requirement for Providers	
Policy Number: BBHC.0090	Contract Section (s): Contract No. JH343
Effective Date: November 1, 2012	Revision Date: July 13, 2023
Responsible Department: Continuous Quality Improvement (CQI)	
Approved by: Caren Longsworth, Director of Quality Improvement	
Signature: <small>DocuSigned by:</small> <i>Caren Longsworth</i> <small>7A4D59B701D0479...</small>	Date: <u>8/6/2023</u>
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Policy: This policy formalizes the process for monitoring the network service providers to ensure Level 2 Background Screenings have been successfully completed prior to the network service providers' staff performing any duties. Providers must adhere to Level 2 background screening requirements for all employees, volunteers, and contractor staff with job duties that involve access to persons-served or to personal information of persons-served protected by federal and state laws, rules, regulations, or policies.

Purpose: This policy helps to ensure the proper care, safety, and protection of persons-served and their personal information is protected by federal and State of Florida laws, rules, regulations, and Florida Department of Children and Families' rules and policies.

Procedures:

Each provider shall be obligated to ensure:

- A. All employees are screened in accordance with Level 2 screening standards, as set forth in Chapter 435, Florida Statutes, as a condition of initial employment and on-going retention of their employment.

Additionally, as set forth in Chapter 435, Florida Statutes, employees covered under this policy will be required to successfully complete a re-screening every five (5) years as a condition of their continued employment.

- B. Prior to beginning employment with a network service provider, every applicant offered employment or a position of any kind (employee, volunteer or contracted) within the provider's organization shall be fingerprinted. Their fingerprints, along with all necessary information, shall be forwarded for processing by the provider to the Florida Department of Law Enforcement (FDLE). The fingerprints shall be taken by a law enforcement agency or an authorized vendor pursuant to §435.04, Florida Statutes.
- C. No person may commence employment if they have been arrested for and are awaiting disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any disqualifying offenses pursuant to a Level 2 screening under Chapter 435, Florida Statutes, or pursuant to §435.04, Florida Statutes, if applicable.
- D. Following employment, all employees must report any arrest, which includes notice to appear in court for a criminal charge, to their immediate supervisor within 24 hours of the arrest or receipt of the notice to appear. If an employee fails to report an arrest within 24 hours, they shall submit a written explanation as to why the arrest was not timely reported. The Provider must adopt policies which stipulate that the employee's failure to timely report an arrest may result in disciplinary action up to, and including, dismissal. The immediate supervisor must document all reports. This information must be shared with BBHC within 24 hours of receipt of information from their employee or learning of such arrest from any other means.
- E. All criminal history record information shall be reviewed by the Provider's Human Resources Manager, a management representative, or the Provider's legal counsel. A criminal history does not automatically bar someone from employment so long as the criminal history is not listed amongst the list of disqualifying offenses found under Chapter 435, Florida Statutes, or if applicable Chapter 408, Florida Statutes. The review will include all criminal history record information to determine if there are any disqualifying arrests pending disposition, convictions or court pleas under Chapter 435, Florida Statutes, or if applicable Chapter 408, Florida Statutes.

- F. Upon request, the person whose background is being reviewed shall promptly provide any missing information relating to the arrest and final disposition to their employer within 30 days of a request for such information. Failure to do so in a timely manner, without cause, shall require the immediate termination of their employment for current employees and applicants for employment shall no longer be considered eligible for employment.
- G. Candidates who have no criminal history or who have successfully completed the background screening shall be authorized to begin employment, and Provider shall issue a clearance letter (or other documentation that shows the candidate successfully completed the background screening) to be placed and maintained in the employee's personnel file. When the results of an employee's security background check indicate a criminal record, all arrests, final disposition information and recommendations for employment must be documented and a copy maintained in their personnel file.
- H. Providers shall require selected applicants and employees who are being rescreened to attest that they meet the requirements to qualify for employment and agree to inform their employer immediately if arrested or convicted of any of the disqualifying offenses listed on the attestation while employed. Employees will continue to report all arrests or notice of possible criminal prosecution, including any violation or infraction mandating a court appearance, to their immediate supervisor. If a selected applicant or employee falsifies the attestation, it may be grounds for disqualification from employment.
- I. A criminal history record reflecting an arrest for any offenses listed in §435.04, Florida, or §408.809, Florida Statutes, if applicable, without an indication as to the final disposition of the charge shall be verified by the provider with the Clerk of the Court in the jurisdiction where the arrest was made or the case was adjudicated, as appropriate.
- J. An employee who is subsequently arrested pending disposition for a disqualifying offense under §435.04, Florida Statutes, or §408.809, Florida Statutes, if applicable, shall have their duties revised to ensure that they do not have any contact with persons-served or access to client information unless and until their case is disposed of in a satisfactory manner ensuring continued adherence to this policy.
- K. The applicant's or employee's employment application will be reviewed by the Provider to verify the accuracy of the information provided about criminal history. In the event of falsification by the employee or applicant of their employment application or criminal

history, the Provider shall ensure that the current employee is disciplined up to and including dismissal and an applicant for employment shall not be further considered for employment.

- L. An employee shall be subject to termination if they are found guilty of, regardless of adjudication, or have entered a plea of nolo contendere or guilty to any offense listed in §435.04, Florida Statutes, or if applicable § 408.809, Florida Statutes, unless an exemption from disqualification has been granted pursuant to §435.07 Florida Statutes.
- M. Providers must ensure the DCF (Department of Children & Families) Background Screening Result clearly identifies the individual's eligibility as DCF Mental Health, or DCF Substance Abuse. Eligibility is based on the service(s) being provided by the hiring agency.

Criminal History and Background Records Review for All Employees

- A. BBHC may review the criminal history and background records for all employees to ensure compliance with this policy. Such reviews are necessary to determine if the provider is applying the necessary review standards and to ensure that persons who may be prohibited from doing so are not otherwise employed by the provider. The Provider shall ensure a review of any criminal history and background records is job related and free of any unlawful discrimination. Consideration should be given to:
 - 1) Type of action or offense and final disposition
 - 2) Position duties and responsibilities
 - 3) Location of position
 - 4) Nature of crime, offense, or action
 - 5) Date offense or conviction occurred
 - 6) Length of time since offense, action, or conviction
 - 7) Circumstances surrounding the offense, action, or conviction
 - 8) Work history since the actions, offense(s) or conviction(s) occurred

NOTE: Consideration should be given to EEOC Enforcement Guidance issued April 25, 2012, related to arrest and conviction records for employment purposes found at the following EEOC website: <https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions>

- B. If a record contains any outstanding warrants, the Provider is required to immediately contact the appropriate law enforcement agency to verify the warrant.

Re-Screening

- A. For continued employment, each employee must be re-screened at no more than five (5) year intervals following their initial screening.
- B. An employee who has been background screened and cleared the background check within the last five (5) years does not have to be re-screened if the employee moves to another position within the organization, provided the employee was screened previously against all applicable screening criteria relevant to the new position.

Records Retention Requirements

Background investigative information, correspondence record checks, and any documentation relating to the review and investigation of the criminal history record check shall be maintained in a file separate and apart from the official personnel file for those individuals who are hired. Such records shall be maintained throughout the employee's term with the Provider. Following separation of employment, or if the applicant is not employed, such records shall be retained by the provider for four (4) years from the date of separation or conclusion of the hiring process provided any litigation is resolved.

REFERENCES:

ATTACHMENTS:

Definitions:

- A. **Applicant** – An individual who has applied for a position with the Provider. Applicants also include volunteers, interns, and mentors. This term does not include current employees who are placed in another position, promoted, or demoted.
- B. **Criminal History Record Information (CHRI)** – Individual arrest and disposition records obtained from the United States Federal Bureau of Investigation (F.B.I.) through the Florida Department of Law Enforcement (FDLE). This information may include sealed, expunged, out-of-state, and certain juvenile criminal records.
- C. **Contracted Staff** - Contracted staff are deemed to be persons of special trust and responsibility pursuant to section 110.1127, F.S., and shall be fingerprinted and screened pursuant to section 435.04, F.S., Level 2, and if applicable section 408.809, F.S., screening standards.
- D. **Disqualifying Offense** – Offenses listed in Chapter 408, 435, Florida Statutes that result in a person being ineligible for employment with the Department or a Department contracted/subcontracted provider.
- E. **Employee** - A person employed for wages or salary.
- F. **Exemption from Disqualification** – Pursuant to Section 435.07, Florida Statutes,

the Department's review process established to allow an applicant with an ineligible rating for employment with the Department or with a Department contracted provider to be reconsidered and granted an exemption thus allowing the applicant to work for the Department or the provider.

- G. **Hire Date** - The date the employee is hired by the provider.
- H. **Human Resources Manager** - Individual within an organization responsible for hiring new employees, supervising employee evaluations, mediation between employees and bosses as necessary, and general overseeing of the personnel department.
- I. **Ineligible Rating** – A rating given to applicants whose criminal record contains a finding of guilty or a plea of nolo contendere (no contest), or adjudication withheld for any of the offenses set forth in Section 435.04, Florida Statutes, under the Level 2 Screening Standards, or under any similar statute in another jurisdiction. Applicants receiving this rating shall not be employed unless an exemption from disqualification is granted.
- J. **Rating** – The classification applied to an applicant's screening that determines if the applicant can or cannot work. The ratings that may be applied to an applicant's screening are eligible,
- K. **Rescreen** - The employment screening check required of employees every five years of consecutive employment. The five-year rescreen date is calculated from the employee's hire date.
- L. **Volunteer** A voluntary act of an individual or group freely giving time and labor for community service.

REVISION LOG

REVISION	DATE
Reviewed and grammatical changes made	7/21/2021
Reviewed, no substantial changes made	7/29/2022
Reviewed, QI (Quality Improvement) Director title change made, grammatical changes made.	7/13/2023

The Director of Quality Improvement and Chief Executive Officer are responsible for all content in this policy.