



**State of Florida  
Department of Children and Families**

**Ron DeSantis**  
Governor

**Chad Poppell**  
Secretary

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**DATE:** March 13, 2020

**TO:** Regional Managing Directors  
Community-Based Care Lead Agency CEOs

**THROUGH:** Patricia Babcock, Deputy Secretary *Patricia Babcock*

**FROM:** Patricia Medlock, Assistant Secretary for Child Welfare *PM*  
Robert Anderson, Assistant Secretary for Operations *RA*

**SUBJECT:** CFOP 50-1, Criminal Justice Information Services, Chapter 7, Driver and Vehicle Information Protection; Chapter 10, Caretaker Screening; and Chapter 11, Exemption from Disqualification

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**PURPOSE:** The purpose of this memorandum is to provide notification that CFOP 50-1, Criminal Justice Information Services, Chapter 7, Driver and Vehicle Information Protection; Chapter 10, Caretaker Screening; and Chapter 11, Exemption from Disqualification, have been updated.

**BACKGROUND:** In an effort to better organize functions that have similar alignment within CFOP and to make updates to comply with external agency requirements and internal audit findings, the following changes have been made:

Chapter 7 has been updated as follows:

- DAVID accounts may not be provided to contractor/sub-contractor staff
- PeopleFirst IDs shall be included on DAVID access request forms
- Added a requirement to maintain an Agency User List for identifying all active department DAVID user accounts

Chapter 10 supersedes CFOP 60-19 and has been updated as follows:

- Updates and expands definitions
- Outlines procedure for processing background screening results with criminal history
- Delineates the confidentiality and sharing of information process

Chapter 11 supersedes CFOP 60-18 and has been updated as follows:

- Revises the criteria for eligibility to request an Exemption from Disqualification
- Defines the routing and approval process for DCF and APD exemption requests to reflect current procedure
- Updates terminology and expands definitions

**ACTION REQUIRED:** Please share this memorandum and the new/updated CFOP 50-1, Chapters 7, 10, and 11 with all appropriate staff in the regions, circuits, Community-Based Care Lead Agencies, and case management organizations.

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1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

MEMO: CFOP 50-1, Criminal Justice Information Services, Chapter 7, Driver and Vehicle Information Protection; Chapter 10, Caretaker Screening; and Chapter 11, Exemption from Disqualification

March 13, 2020

Page 2

**CONTACT INFORMATION:** If you have questions or need clarification regarding this memorandum or the changes to CFOP 50-1, for Chapter 7 please contact Travis Paulk, Criminal Justice Information Services Manager, at [Travis.Paulk@myffamilies.com](mailto:Travis.Paulk@myffamilies.com) or 850-251-4882; for Chapters 10 and 11 please contact Diane Harris, Chief of Policy and Public Relations – Background Screening Program, at [Diane.Harris@myffamilies.com](mailto:Diane.Harris@myffamilies.com) or 850-717-4636.

cc: Regional Family and Community Services Directors  
Shelby Jefferson, Director of Human Resources  
Hue Reynolds, Director of Child Care Regulation  
Sheriff's Offices Conducting Child Protective Investigations  
Center for Child Welfare

## Chapter 7

## DRIVER AND VEHICLE INFORMATION PROTECTION

7-1. Purpose. This chapter provides requirements to ensure that Florida Department of Highway Safety and Motor Vehicle (DHSMV) systems, applications, and information (to include, but not be limited to, personal driver's license and motor vehicle information) is accessed and queried by Department of Children and Families personnel only for authorized purposes, and that the results are protected in accordance with existing law, policy and procedure.

7-2. Scope. This chapter is applicable to all Department of Children and Families employees authorized to access systems, applications, or information containing DHSMV and/or driver's license information, or authorized to query such records.

7-3. General Requirements.

a. Access to driver's license information, to include photos and signatures, is limited to those purposes as defined in existing laws and the department's memorandum of understanding with the Florida Department of Highway Safety and Motor Vehicles (DHSMV) and Office of State Court Administrators (OSCA).

b. The department must establish what information may be accessed, for what purposes, Driver and Vehicle Information Database (DAVID) account roles for each system user, and information security procedures in accordance with existing laws and the memorandum of understanding with DHSMV and interagency agreement with OSCA.

c. The department may not assign or sub-contract any rights or duties within the MOU without DHSMV consent.

d. Each program is responsible for establishing business practices, in appropriate operating procedures, detailing for what specific purpose information may be accessed, how the information can be shared, and how the information can be used in accordance with Florida Statute to include, but not limited to, Social Security Number (s. [119.071](#), F.S.), Driver's License Photo (s. [322.142](#), F.S.), Medical/Disability Information (s. [322.125](#), F.S. and s. [322.126](#), F.S.), this operating procedure, the Driver's Privacy Protection Act, and the department's memorandum of understanding with DHSMV and interagency agreement with OSCA.

e. The purpose of the request and/or information access, not just the requestor's job title, dictates what information can be requested, queried, received, and/or viewed.

f. Department staff may be authorized to access DHSMV information by more than one system or application which includes, but may not limited to, DAVID and the Judicial Inquiry System (JIS).

g. Prior to accessing the DAVID data source via the Florida Department of Law Enforcement's CJNET or accessing driver's license/motor vehicle information from the Florida Crime Information Center (FCIC)/National Crime Information Center (NCIC), authorization must be obtained from the department's Terminal Agency Coordinator.

7-4. Security and Confidentiality.

a. Personal information, including restricted information as defined in 18 U.S.C section 2725, contained in a motor vehicle record is confidential pursuant to the federal Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. section 2721.

b. Such information may be released only as authorized by that act, Florida Statutes, and the interagency agreement with DHSMV.

c. Emergency contact information contained in a motor vehicle record is confidential and exempt from s. [119.07\(1\)](#), F.S., and section 24(a), Art. I of the State Constitution.

d. A person who knowingly violates the provisions of s. [119.07\(1\)](#), F.S., is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), F.S.

e. A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. [775.082](#), F.S. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed \$1,000 (s. [775.083\(1\)\(d\)](#), F.S.) when the conviction is of a misdemeanor of the first degree.

f. DHSMV and OSCA logs and archives information for completed transactions in the DAVID and JIS systems. The archived information contained in these logs can be used for criminal investigations of suspected misuse, audits, quarterly quality control reviews, public record requests, and administrative purposes.

#### 7-5. Driver's License Photo and Signature.

a. Access to personal driver's license photos and signatures is confidential and restricted to specific purposes as defined in s. [322.142\(4\)](#), F.S., and pursuant to the department's the memorandum of understanding with DHSMV and interagency agreement with OSCA.

b. Authorized department purposes are:

(1) Protective investigations under [Part III](#) of Chapter 39 and Chapter [415](#), F.S.;

(2) For use as verification of identity to expedite the determination of eligibility for public assistance; and,

(3) For public assistance fraud investigations.

c. Access to DHSMV information for inspector general investigation purposes is detailed in and pursuant to the department's Office of Inspector General's memorandum of understanding with DHSMV.

#### 7-6. Emergency Contact Information (ECI) and Other Restricted Information Types.

a. Emergency contact information (ECI) contained in a motor vehicle record is confidential and exempt from s. [119.07\(1\)](#), F.S. and section 24(a), Art. I of the State Constitution.

(1) Emergency contact information contained in a motor vehicle record is restricted to law enforcement agencies. The department is not authorized to access ECI.

(2) Roles allowing access to ECI shall not be provided by DCF DAVID Points of Contact to department staff.

b. Extended timeout sessions are only authorized for law enforcement agencies. Department staff shall not be provided with extended time out sessions.



c. Additional information types that have restrictions include the following:

- (1) Crash Reports (s. [316.066](#), F.S.);
- (2) Email Addresses (s. [119.0712](#), F.S.);
- (3) Voter Information (s. [97.0585](#), F.S.); and,
- (4) Deceased Dates (15 CFR 1110.102).

#### 7-7. Roles and Responsibilities.

a. DAVID Point of Contact(s). Responsible for user account administration activities to include, but not be limited to, approving account requests, the creation/modification of user accounts, and password resets.

b. Information Security Manager (ISM). The person designated by the Secretary of the department to administer the department's data and information technology resource security program.

c. Judicial Inquiry System (JIS) Point of Contact(s). Responsible for user account administration activities to include, but not be limited to, approving account requests, notifying JIS for account deactivations, and assisting with troubleshooting issues.

d. Terminal Agency Coordinator (TAC). Responsible for ensuring agency compliance with CJIS policies and procedures and acts as the agency liaison with FDLE's Criminal Justice Information Services (CJIS) staff. Also, ensures CJIS and DAVID audits are completed as required.

#### 7-8. Account Access Requests.

a. DHSMV DAVID accounts are requested by completing the DCF Driver and Vehicle Information Database Access Authorization Request (form CF [140](#), available in DCF Forms). The request form can be found on the Intranet at <http://eww.dcf.state.fl.us/security/forms.shtml>.

(1) The requestor's supervisor must approve access and sign the request form.

(2) Completed DAVID request forms should be submitted to the appropriate DAVID point of contact located within each Region's local security office via an IT Footprint ticket.

(3) When creating and/or modifying user accounts, the Department DAVID Points of Contact shall follow access permissions and roles as detailed in the 2019 DCF DAVID Program Roles Reference form located at <http://eww/cjis/policy.shtml>.

(4) DAVID accounts may only be provided to direct employees and not contractors, sub-contractors, or any other non-employees.

(5) DAVID Access Authorization Request forms must be fully completed prior to providing an account. This includes but is not limited to: identifying requestor as direct employee by including his/her People's First ID, documenting the requestor's program/position, and signature approval by the requestor's supervisor.

(6) The DAVID Point of Contact list can be located on the department's CJIS intranet page at <http://eww.dcf.state.fl.us/cjis/>.

b. Judicial Inquiry System accounts are requested by completing the JIS Access Request. The request form is located on the department's intranet page at <http://eww.dcf.state.fl.us/cjis/>.

(1) Completed JIS request forms are submitted to the Hotline, CPI, or API programs JIS point of contact as appropriate.

(2) Requests for CPI, API, and Background Screening staff can be submitted to [HQW.OSCAJISRequest@myflfamilies.com](mailto:HQW.OSCAJISRequest@myflfamilies.com).

(3) The JIS Point of Contact list is located on the department's CJIS intranet page at <http://eww.dcf.state.fl.us/cjis/>.

(4) The JIS Point of Contact must approve access and level of access on the request form.

(5) Prior to approving access, the JIS Point of Contact shall validate that DAVID training and e-acknowledgements have been completed via the department's Human Resources Training System (HRTS).

(6) Any request for CJIS databases and/or information access must be approved by the TAC in addition to the JIS Point of Contact.

#### 7-9. Dual Access Requests.

a. Each staff member's DAVID account is assigned to the appropriate Agency and sub-Agency (Region). If a user is dual employed by another agency and is authorized for access to DAVID at both agencies, then he/she needs to apply for Dual Access. Once Dual Access is obtained the user will need to select the appropriate agency during sign in.

b. Similarly, if a DCF staff member conducting the Quarterly Quality Control Review (QQCR) needs to audit users assigned to a different Region(s) as part of the QQCR process, then he/she will need to apply for Dual Access and select the appropriate sub-agency/Region during sign in.

c. Requests for Dual Access should be submitted to the DAVID point of contact in the requestor's Regional Security Office.

(1) The DAVID system requires a Dual Access request submission from the user's DAVID profile.

(2) Dual Access requires processing in the DAVID system by the user's primary Regional DAVID Point of Contact and each Region's DAVID Point of Contact for which access is being requested.

d. Prior to the Region DAVID Point of Contact providing Dual Access in the DAVID system, the user must additionally submit an IT Footprint Ticket attaching a new DCF Driver and Vehicle Information Database Access Authorization Request Form.

(1) The request form must be approved and signed by the user's supervisor as detailed in paragraph 7-8 of this operating procedure.

(2) Request forms must be signed by the Chief of Investigations for staff with the Office of Inspector General.

(3) To assist the DAVID POC with assigning appropriate roles in the user's DAVID account, both the IT Ticket and Request Form must detail the reason for the Dual Access such as conducting audits or Dual Employment.

(4) When submitting the IT Footprint Ticket, the user must copy the submission to the approving supervisor and the CJIS Coordinator.

(5) For Dual Employment, the other Agency name and contact information shall be included.

#### 7-10. Training and Acknowledgements.

a. Department personnel are required to complete a DHSMV user training prior to accessing a DHSMV system or application. Users are required to take the training annually.

(1) The training is available through DAVID and new users are prompted to complete at initial sign in for that system.

(2) D.A.V.I.D users are required to electronically sign a legal disclaimer acknowledging proper business usage and possible sanctions for misuse at each sign in.

b. The Judicial Inquiry System (JIS) does not contain a training module with the system itself.

(1) Training is available for JIS on the department's HRTS for JIS users with the Hotline, CPI, and API programs.

(2) Department JIS users are required to complete the confidentiality and criminal sanctions acknowledgements via the department's HRTS.

#### 7-11. Password Resets.

a. Both the DAVID and JIS systems have available functionality for a user to set security questions to assist with password resets.

b. If the security questions have not been set, and a user needs assistance with a password:

(1) For DAVID, the appropriate Regional DAVID point of contact should be contacted for assistance. DHSMV customer support should not be contacted for a password reset.

(2) For JIS, the OSCA JIS support staff should be contacted for password resets for Judicial Inquiry System accounts by emailing [JIS\\_Support@flcourts.org](mailto:JIS_Support@flcourts.org).

#### 7-12. Account Deactivation.

a. DAVID Accounts.

(1) The DAVID point of contact in the appropriate Regional Security Office should be notified when an employee with an active account separates from the department or moves to position no longer requiring access or moves to a position with a different level of access.

(2) User's access permissions must be updated immediately upon termination, reassignment, or upon discovery of negligent, improper, or unauthorized use or dissemination of information.

(3) The DAVID point of contact should be notified if an employee is transferring to another agency and will require DAVID access. The DAVID point of contact can approve the transfer of the employee's current account only if the staff member is still employed by the department. A DAVID account cannot be reactivated for any purpose to include for transfer if the employee is no longer employed.

(4) The appropriate Region DAVID point of contact should be notified if an employee's account has not been logged into for 60 days, and the DAVID point of contact shall inactivate the account.

(5) Employees needing account reactivation shall submit a new DCF Driver and Vehicle Information Database Access Authorization Request form following the procedure detailed in paragraph 7-8 of this operating procedure ("Account Access Requests").

(6) Account deactivations and modifications to permissions for OIG staff shall be submitted to the OIG DAVID Point of Contact.

b. JIS Accounts.

(1) The JIS point of contact should be notified when an employee with an active account separates from the department or moves to position no longer requiring access or moves to a position with a different level of access.

(2) JIS accounts should be deactivated as soon as possible from the time of separation from the department or assignment to a new position.

(3) The JIS point of contact should be notified if an employee's account has not been logged into for 60 days for account inactivation.

(4) Employees needing account reactivation shall submit a new JIS Access Request form following the procedure detailed in paragraph 7-8 of this operating procedure ("Account Access Requests").

7-13. Incident Reporting.

a. Incident reporting for misuse and/or abuse of DHSMV or OSCA systems, applications, and/or information must occur in accordance with CFOP [50-2](#), Chapter 3, Incident Reporting and SOP S-2, DHSMV DAVID Related Event and Incident Reporting Required Notification Procedure.

(1) Requests for DAVID audits to investigate allegations or suspected misuse/abuse of DHSMV or OSCA systems shall be reported to the OIG and ISM by the Department's DAVID Administrator.

(2) Additionally, misuse of DHSMV or OSCA systems, applications, and/or information must be reported to DHSMV and/or OSCA as appropriate in accordance with the department's interagency agreements.

b. When reporting an incident, DHSMV requires a brief summary of the incident on agency letterhead, the outcome of the review, the number of records compromised, if owners of the compromised information were notified, what disciplinary action (if any) was taken, and corrective action plans to ensure misuse does not occur again.

c. Additionally, DHSMV requires that owners of compromised information be provided notification. Documentation of the notice, to include the notification letters to DHSMV and owners of



compromised information, shall be maintained by the appropriate program office QQCR staff and provided upon request by department leadership/ISM/OIG, the department's DAVID Administrator, and DHSMV to include during on-site audits.

d. The department must immediately update user access permissions upon discovery of negligent use, improper use, unauthorized use or unauthorized dissemination.

7-14. Dissemination of DAVID and JIS Information.

a. Personal driver and motor vehicle information, to include driver's license photos and signatures, obtained from DAVID and JIS systems are confidential and shall only be received and disseminated as prescribed in the department's memorandum of understanding with DHSMV and interagency agreement with OSCA as well as department operating procedures.

b. Personal driver and motor vehicle information, to include driver's license photos and signatures, may only be released or further disseminated to authorized personnel.

c. Driver's license photos and signatures shall only be received by department staff directly responsible for performing tasks for purposes as defined in existing laws and the department's memorandum of understanding with the Florida Department of Highway Safety and Motor Vehicles, including:

- (1) Protective investigations;
- (2) Identification verification for public assistance eligibility determinations; and,
- (3) Fraud investigations.

d. Hard copies of the driver and motor vehicle information, including the driver's license photos and signatures, should not be disseminated to non-department staff such as case managers during case transfer from investigations. DAVID queries may not be requested or conducted for the purpose of protective services case management, home studies, or licensing.

7-15. Storage and Destruction.

a. Personal driver and motor vehicle information must be protected from access by unauthorized personnel. As such, information must not be co-mingled with any file (hardcopy file or electronic) or records scanned into a local database that may be accessed by personnel not authorized to view.

(1) Records obtained for the purpose of protective investigations from the DAVID system or JIS reports shall not be scanned into the Florida Safe Families Network (FSFN).

(2) Agencies must meet Driver's Privacy Protection Act and interagency agreement requirements prior to cutting, copying or pasting response data into a local system for the purpose of transmittal or storage.

b. Driver and motor vehicle information and records are constantly changing and should only be kept until the administrative value is lost.

(1) DHSMV Information obtained through DAVID or the JIS system may be disposed via approved methods as described in this operating procedure when the information therein no longer has any administrative value (per retention schedule GS1-SL, Item #2, Administrative Convenience Records). The records obtained from DAVID or the JIS system are "duplicates"; the record copy is held

by the Florida Department of Law Enforcement or the Department of Highway Safety and Motor Vehicles.

(2) Per our interagency agreement, DHSMV information may only be retained by Law Enforcement agencies.

c. Until disposal, driver license and motor vehicle records shall be maintained in a restricted location where only authorized personnel shall have access.

d. A staff member authorized to view the information must witness the destruction of driver's license and motor vehicle records and files containing such records. If a private vendor is used for record destruction, the record holder employee must remain with the record until it is destroyed.

#### 7-16. Quarterly Quality Control Reviews.

a. The department's interagency agreement with DHSMV requires the completion of Quarterly Quality Control Reviews (QQCR) to ensure proper access and usage of driver and motor vehicle systems and information.

b. Each program office that has staff authorized for access to DAVID is responsible for ensuring QQCR(s) are completed.

c. A QQCR Manual and template for documenting the Quarterly Reviews can be located on the department's CJIS intranet page at <http://eww.dcf.state.fl.us/cjis/>, then click on "Audit Resources."

d. DHSMV DAVID has functionality providing each user agency with the ability to run audit reports for department users.

e. The Judicial Inquiry System (JIS) does not have audit functionality for user agencies. The appropriate JIS point of contact may contact OSCA JIS Support for assistance with obtaining transaction information for audits of department JIS users.

f. The QQCR should be completed and documented each quarter.

(1) Each program conducting the QQCR needs to determine the appropriate number of users and user transactions to query and review.

(2) Audit reports can be run for a randomly selected week or month in the quarter. Audit reports can be run by individual or by Region. If an audit report is run by Region rather than for a specific individual user, then users and transactions with other programs may be included in the results.

(3) The staff member conducting the QQCR shall look for any misuse, including but not limited to, reason codes, running siblings/spouses, running celebrities/political figures, repeated runs of the same subject, access to ECI information, and times of day that access occurred.

(4) The department shall maintain an agency list identifying all staff with DAVID accounts. Each quarterly quality control review shall include a review of all program DAVID users. This review shall include comparing the agency list to the DAVID active user report to ensure current users are appropriately authorized for access. If updates to user access permissions are identified, the DAVID point of contact in the appropriate Regional Security Office shall be immediately notified for completing appropriate account access permissions.

(5) The department must keep records of new/inactivated users since the last QQCR. This shall include logging dates and reasons for any changes to user account permissions.

(6) Programs conducting the QQCR shall provide a completed DAVID QQCR Report Summary form located at <http://eww/cjis/audits.shtml> to the department's DAVID Administrator.

(7) DHSMV requires each QQCR to be completed within 10 days from the end of the previous Quarter.

## Chapter 10

## CARETAKER SCREENING

10-1. Purpose. This operating procedure establishes standards and procedures for screening and re-screening of persons in positions designated by law to be screened as caretakers pursuant to Chapter [435](#), Florida Statutes (F.S.), Chapter [39](#), F.S., Chapter [110](#), F.S., Chapter [393](#), F.S., Chapter [394](#), F.S., Chapter [397](#), F.S., Chapter [402](#), F.S., Chapter [408](#), F.S., and Chapter [409](#), F.S.

10-2. Definitions. For the purposes of this operating procedure, the following definitions apply:

a. APD means the Agency for Persons with Disabilities.

b. Applicant, as used in this operating procedure, refers to the person being screened for employment, volunteer work, registration, or licensure.

c. Care Provider Background Screening Clearinghouse, known as “Clearinghouse” (CLH), is a web-based application and single data source that allows providers and state agencies to access Level 2 background screening information. The Clearinghouse is used to retrieve background screening results for persons screened for employment by or licensure of providers/facilities that provide services to children, the elderly, or disabled individuals. The Agency for Health Care Administration (AHCA) is charged with maintaining the Clearinghouse.

d. Caretaker Screening Information System (CSIS) refers to the statewide computer program utilized by the Department’s Background Screening Program and other background screening entities within the Department to track screenings for persons required to be screened pursuant to Chapter [435](#), Florida Statutes (F.S.), Chapter [39](#), F.S., Chapter [110](#), F.S., Chapter [393](#), F.S., Chapter [394](#), F.S., Chapter [397](#), F.S., Chapter [402](#), F.S., Chapter [408](#), F.S., and Chapter [409](#), F.S.. Only results received by the Background Screening Program are entered into the system. This system will become obsolete when the new workforce management system is completed.

e. Child Care refers to the provider/facility type that includes all owners, operators/directors, designated representatives, employees, or volunteers working with children’s programs. This does not include individuals who work in the facility after hours when children are not present or the parents/guardians of children in Head Start. The following also operate within the same statutes and are considered Child Care facilities:

(1) Family Day Care Homes include operators, substitutes, employees, and every household member over the age of 12 years old.

(2) Religious Exempt facilities include owners, operators/directors, employees, and volunteers who serve 10 hours or more per month. This does not include individuals who work in the facility after hours when children are not present.

(3) Enrichment Programs refer to individuals who provide language training, music instruction, educational instruction, and other experiences to specific children during a specific time that is not part of the regular program in a Child Care facility.

(4) Afterschool refers to a program that is operated and staffed directly by that school or through a formal agreement, such as a contract, between the school and a provider which names the school/school district as the responsible party for the operation of the program.

f. Child Welfare refers to the provider/facility type that includes residential Child-Caring Agencies, Child-Placing Agencies and Foster/Shelter-Group Homes (licensed out-of-home care).

Individuals screened includes directors and employees who have direct contact with clients and every household member age 12 years and older residing in the home.

g. Clerk of the Court Websites, as used in this operating procedure, refers to online public record systems, by county, that allow for the search of a specific court case or individual.

h. Comprehensive Case Information System (CCIS), as used in this operating procedure, refers to a web-based information system that allows Background Screening personnel access to view Florida criminal records in reference to an individual or specific case search.

i. Department means Department of Children and Families (DCF).

j. FBI means Federal Bureau of Investigation.

k. Florida Crime Information Center (FCIC) refers to the State of Florida criminal history results retained by the Florida Department of Law Enforcement. In reference to this operation, Background Screening personnel review the FCIC, as obtained through the Level 2 screening, to determine employment eligibility.

l. FDLE means Florida Department of Law Enforcement.

m. Florida Safe Families Network (FSFN) refers to is the Department's current Comprehensive Child Welfare Information System (CCWIS) used by child and adult protective investigations and services. The Background Screening Program uses this application to perform child abuse and neglect checks prior to an individual's eligibility determination.

n. Illegible/Rejected Prints refers to FBI criminal history results indicating that the applicants' fingerprints were illegible due to low quality of fingerprints or a scanning error. A Transaction Control Reference (TCR) number is provided by the FBI with the rejected fingerprint response, allowing the applicant to submit a second set of fingerprints within 180 days without incurring a second screening charge.

o. Initial Screening ("Primary Screening") refers to the first screening completed as an act of original employment, hiring, licensing or contracting, prior to starting employment, licensure, or contracting. An initial screening may also occur following a 90-day break in employment from a position for which an individual acquired an initial screening. An approved leave of absence does not constitute a break in employment.

(1) "Level 1 Screening" refers to a screening required by law for all individuals to complete the Level 1 screening requirements. These are name-based screenings requested through FDLE.

(a) Level 1 screenings completed pursuant to s. [435.03](#), F.S. are also granted for adult household members who have a physical, developmental, or cognitive disability that prevents that person from safely submitting fingerprints.

(b) All exempted individuals must submit a Request for Fingerprint Exemptions and be approved by the Department. Screening request are submitted manually or electronically.

(2) "Level 2 Screening" refers to a screening required by law for employment, licensure, volunteers, and registration as directed by Florida Statutes. A Level 2 screening differs from a Level 1 screening in that it is fingerprint based and a national criminal history check is required.



(3) A program may have additional screening requirements as identified in program specific statutes or rules (e.g., local criminal history, employment history, references, etc.).

p. Judicial Information System (JIS) is a web-based browser interface administered by the Office of State Court Administrators (OSCA) that provides the capability to query multiple Florida agency data sources. For the purposes of this operation, the Background Screening Program has access to JIS to view criminal history records for individuals being screened for employment or licensure.

q. Licensing Entity refers to the government entity responsible for issuance of a license.

r. Licensing Agency refers to the entity, government or non-government, responsible for training prospective licensees and submitting all necessary documentation to the Licensing Entity or Regulatory Authority.

(1) Some counties have their own "Local Licensing Agency".

(2) These agencies serve to license local Child Care facilities and homes whose licensing standards meet or exceed state minimum standards within that specific county.

s. Live Scan is a device used for the electronic submission of fingerprints.

t. Medicaid Waiver System refers to a Medicaid program that provides home and community-based supports and services to eligible persons with developmental disabilities living at home or in a home-like setting. This system is maintained by APD under the authorization of the Agency for Healthcare Administration, Division of Medicaid.

u. National Crime Information Center (NCIC) refers to the national criminal history results from all states and territories retained by the FBI and/or other state repositories. In reference to this operating procedure, Background Screening personnel review the NCIC, as obtained through the Level 2 screening, to determine employment eligibility. Such records are confidential except to other governmental agencies under specific circumstance and must not be shared outside of the Department.

v. Name Check Only (NCO), or "Name Search" refers to a request sent to the FBI to conduct a search for criminal history results using only the person's government-recognized name. For the purposes of this operating procedure, the Background Screening Program utilizes this type of search when an applicant's Live Scan fingerprinting has resulted in two sets of illegible fingerprints.

w. National Fingerprint File (NFF) refers to the program in which duplicate criminal history record searches for states participating in the program are eliminated. Child Care providers/facilities can utilize the national criminal history results obtained through the Level 2 screening to satisfy the out-of-state criminal history requirement for applicants who have retained residency in a participating state within the past five years.

x. Originating Case Agency Number (OCA) refers to the identification number issued by the Background Screening Program through the CSIS program. It is the key to identifying the provider/agency requesting the background screening or for whom the background screening is being completed. This is a unique number generated by the CSIS system or converted from a legacy system. When registered with FDLE for Live Scan submissions, the OCA is prefaced with the two-digit district number and ends with a "Z" (e.g. 03011234Z). This differs from an ORI, which is assigned to qualified governmental entities by the FBI.

y. Originating Agency Identifier (ORI) refers to the nine-character identifier assigned by the FBI Criminal Justice Information Services (CJIS) staff to an agency which has met the established

qualifying criteria for ORI assignment. It identifies agencies in transactions on the NCIC system as well as for the submission of fingerprints:

(1) EDCFGN10Z – Child Placing and Residential Child Care Agencies, Chapter 39 Subcontracted Providers who Tutor and Mentor.

(2) EDCFGN10Z – Child Care Facilities, Family Day Care Homes, Religious Exempt, After School Programs, Child Enrichment Programs, Membership Organizations, Registered Family Day Care Homes, Private Charter Schools.

(3) EDCFGN10Z – Substance Abuse (Adults Only) determination based on MH criteria.

(4) EDCFMH20Z – Substance Abuse and Mental Health, Substance Abuse (Adults and Children), Mental Health Only, Chapter 39 Subcontracted Facilities who provide Psychological, Mental Health Counseling, Assessment, Therapy, and Behavioral Counseling.

(5) EDCFSC30Z – Summer Camp.

(6) EAPDGN10Z – APD General, Group Homes, Medicaid Wavier.

(7) EAPDFC20Z – APD CDC Plus Programs.

(8) EAPDDD30Z – APD Developmental Disability Centers.

(9) FL9XXX5Z – Caretaker State Employees.

z. Re-Arrest refers to an automatic notification received by the Clearinghouse through FDLE. This notification references the recent arrest of an applicant who is on a provider/facility's employee roster in CLH. The Background Screening Program utilizes this notification to determine necessary updates made to the applicant's eligibility within the Clearinghouse.

aa. Regulatory Authority refers to the government entity responsible for the oversight of a service provider/facility.

bb. Membership Organizations, as used in this operating procedure, refers to providers/facilities affiliated with national organizations which do not provide Child Care, whose primary purpose is providing activities that contribute to the development of minors in this state. These organizations charge only a nominal annual membership fee, are not for profit; and are certified by their national associations as following the association's minimum standards and procedures.

cc. Mental Health refers to the provider/facility type that includes all program directors, professional clinicians, employees, and volunteers working in public or private mental health programs and facilities who have direct contact with individuals held for examination or admitted for mental health treatment where the primary purpose of the facility is the treatment of minors.

dd. Peer Specialist refers to a person who:

(1) Has been in recovery from a substance-use disorder or mental illness for at least two years, who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery; or,

(2) Has at least two years of experience as a family member or caregiver of an individual who has a substance-use disorder or mental illness.

ee. Recovery Residence/Sober Home refers to a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

ff. Renewal, as used in this operating procedure, refers to the initiation within the Clearinghouse to renew an applicant's retained fingerprints. This must happen every five years to maintain eligibility for employment. The employer must request a Renewal prior to the retained print's expiration date.

gg. Re-screening refers to the initiation of a Level 2 screening for the continued employment, licensure, or contracted status of an applicant within the Clearinghouse. Everyone is required to be re-screened at five-year intervals following the completion of his or her initial screening. The five-year re-screen is also required for juveniles.

hh. Resubmission, as used in this operating procedure, refers to a type of screening initiated in the Clearinghouse that resubmits an applicant's retained fingerprints to generate new FDLE and FBI criminal history results. This is typically conducted when there has been a lapse in an applicant's employment for greater than 90 days.

ii. Sealed Record, as used in this operating procedure, refers to a record that has been sealed by the court, pursuant to s. [943.059](#), F.S., and is not available to the general public. It can be opened for inspection by the individual, his/her attorney, a criminal justice agency, and those entities set forth in s. [943.059\(4\)\(a\)5](#), F.S., for their perspective licensing and employment purposes. Sealed records are not public records and require special handling.

jj. Shelter Homes (Homeless) refers to services provided to individuals who lack a fixed, regular, and adequate nighttime residence or those living in shelters and temporary housing, or public and private places not designed for sleeping accommodations (e.g., on the street, in cars or parks, etc.).

kk. Volunteer refers to an unpaid helper who assists on an intermittent basis for less than 10 hours per month in most programs, or 40 hours per month in substance abuse programs. This individual is not considered a caretaker, provided the individual is under direct and constant supervision of/by persons who meet Level 2 screening requirements. At no time may any child or developmentally disabled adult be left alone with a volunteer unless the volunteer has met Level 2 screening requirements. Level 2 screening requirements are based on fingerprints submitted under a government issued Social Security Number or government issued Individual Taxpayer Identification Number (ITIN) for international volunteers

ll. Voluntary Pre-Kindergarten (VPK) refers to a pre-kindergarten program, established by the 2005 Legislature, with special funding for providers and available to all children within the state who will attain the age of 4 on or before September 1 of the school year, allowing them to attend either a private or public pre-kindergarten program. This group includes individuals already required to be screened as employees working in programs in private schools with children under the age of 5, facilities exempt from licensure, and licensed childcare centers.

10-3. Scope: This operating procedure applies to state employees, personnel in child care, contracted children's programs, mental health programs, substance abuse service provider personnel, those working with children and the developmentally disabled, child foster care, and residential child-caring and child-placing agencies, Shelter Homes, Recovery Residences, Membership Organizations, Summer Camps, and direct service providers of the Agency for Persons with Disabilities. All the above

are subject to Level 2 screening. This operating procedure also applies to volunteers in programs where volunteers are required to be screened.

#### 10-4. Screening Procedure.

##### a. Establishing a Facility OCA (Identification Number).

(1) The Background Screening Program receives a request or inquiry for an OCA number from the licensing entity or regulatory authority. The Background Screening Program will assist individuals as needed in identifying the regulatory authority and the appropriate program office.

(2) If it is determined that the provider is eligible for a Facility OCA, a search of CSIS should be conducted to ensure the provider does not have an existing Facility OCA.

##### b. Submission of Information for Initial Screening.

(1) The applicant will complete a notarized Affidavit/Attestation of Good Moral Character attesting to their eligibility and submit it to his or her employer, licensing entity, or regulatory authority in accordance with program specific rules or policies.

(2) The employer, licensing entity, or regulatory authority must ensure that the applicant submits fingerprints and any additional required information necessary for the Background Screening Program to determine eligibility prior to employment or access/contact with any vulnerable person.

(3) The request for local criminal history is the responsibility of the licensing entity, regulatory authority, or provider, if applicable. The Background Screening Program may aid with interpretation as requested.

##### c. Evaluation of Criminal History Results and Determining Eligibility.

(1) Criminal History results received from FDLE and the FBI, as well as any action taken and/or final eligibility determinations made, are required to be recorded, updated, and maintained in the Clearinghouse and the CSIS database by the Background Screening Program.

(2) If the Department receives a result from FDLE and/or the FBI that identifies any criminal history, the Background Screening Program will determine eligibility pursuant to the applicable criteria required by law. It is the Background Screening Program's responsibility to verify eligibility based on resources such as CCIS, JIS, Clerk of the Court Websites, CSIS, and any available internal resources.

(3) If an applicant is determined "Eligible," the Background Screening Program will update the eligibility status in the Clearinghouse. This sends an automatic notification to the provider/facility notifying them that they may retrieve the applicant's results. This determination does not imply a recommendation for or against employment or licensure. Employment eligibility is made solely by the provider/facility.

(4) If the applicant is determined "Not Eligible" based on the criminal history results received, the Background Screening Program will notify the applicant in writing. If the applicant is determined "Not Eligible" based on results from a Re-Arrest notification, the Background Screening Program will notify the applicant in writing and the licensing program by email.

(5) If additional information is received by the Background Screening Program, an electronic file in CSIS will be created. The electronic file will be retained by the Background Screening Program which can include, but is not limited to, the following:

- (a) Criminal history results;
- (b) Correspondence; and,
- (c) Other miscellaneous documents submitted by the applicant.

(6) If the applicant does not provide requested documentation within 30 calendar days of the date of the letter for additional information, the applicant will be determined "Not Eligible" until the documentation is received, and a determination is able to be made.

d. Confidentiality and Sharing of Screening Information.

(1) All information obtained through the screening process is exempt from public disclosure and may not be used for any purpose other than determining whether the person meets the minimum standards for the required screening process as outlined in s. [119.07\(1\)](#), F.S.

(2) The sharing of FDLE criminal history information obtained through the screening process is restricted to employment or licensure purposes.

(a) Sealed and expunged information is privileged information and cannot be shared with providers.

(b) Any national information obtained by the Background Screening Program cannot be shared with providers. This includes any national information obtained from FDLE.

(c) As per s. [435.10](#), F.S., any background screening information obtained by providers can be shared with other providers or the Department only for employment or licensure purposes.

e. Records Management. Records shall be retained in accordance with the Department's Records Management Procedure.



## Chapter 11

## EXEMPTION FROM DISQUALIFICATION

11-1. Purpose. This chapter provides guidance to process exemption requests for persons disqualified pursuant to Chapter [435](#), Florida Statutes.

11-2. Definitions. For the purposes of this operating procedure, the following definitions apply:

a. "APD" means the Agency for Persons with Disabilities.

b. "Applicant" means the person requesting an exemption from disqualification from employment, volunteering, registration, or licensure.

c. "Care Provider Background Screening Clearinghouse," known as "Clearinghouse", is an information system that Background Screening Program utilizes to document screenings completed by the Department for care providers.

d. "Clear and Convincing Evidence" is a heavier burden than the preponderance of evidence standard but less than beyond a reasonable doubt. It means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince the Department representatives, without hesitancy, that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.

e. "Department" means the Department of Children and Families.

f. "FDLE" means the Florida Department of Law Enforcement.

g. "FBI" means the Federal Bureau of Investigation.

h. "Verifiable" means that the documentation contains enough information to contact the issuing person/entity should any reviewer wish to substantiate the document or obtain additional information.

11-3. Disqualifying Screenings Results.

a. The Department shall have Background Screening Coordinators that are responsible for reviewing and determining disqualifying criminal history pursuant to sections [435.04](#), [408.809](#), [39.0138](#), [402.302](#) and/or [393.0655](#), Florida Statutes.

(1) The Background Screening Coordinator will prepare a disqualification letter to the applicant detailing the criminal offense(s) that render the applicant not eligible under section [435.04](#), Florida Statutes.

(2) The Background Screening Coordinator will update the applicant profile to indicate a status of "Not Eligible" in the Clearinghouse as a notification to the employer.

b. If a disqualifying offense is identified for which an exemption is statutorily permitted, the Background Screening Coordinator will notify the applicant of the opportunity to request an exemption from disqualification. If the offense is permanently disqualifying, the Background Screening Coordinator will prepare a letter that notifies the applicant that he or she is not eligible to request an exemption from disqualification.

c. All letters sent to the applicant regarding permanent disqualification from employment, licensure, or registration must be sent by certified mail, return receipt requested, with a notice that the applicant has the right to appeal the Department's decision.

#### 11-4. Eligibility to Request.

a. An applicant that has received a notice of disqualification or termination from employment based on criteria in sections [435.03](#), [435.04](#), [408.809](#), or [393.0655](#), Florida Statutes, may apply for an exemption from such disqualification, in writing, if the offense is one for which an exemption may be granted pursuant to section [435.07](#), Florida Statutes. The provisions of that section must be strictly construed when considering a request for exemption from disqualification.

b. The three-year waiting period related to the commission of a felony begins after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition for the disqualifying felony.

c. For a disqualifying felony offense committed as a juvenile and for which the applicant was adjudicated delinquent, an exemption may not be granted until at least three years after the completion of confinement, supervision, or nonmonetary condition for the offense.

d. An individual who has committed a misdemeanor is eligible for consideration for an exemption after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary sanction for the disqualifying offense.

e. An individual that has committed a felony that has since been reclassified and is now considered to be a misdemeanor is eligible to apply for an exemption after the applicant has completed or been lawfully released from confinement, supervision, or nonmonetary sanction for the disqualifying offense.

f. An individual that was ordered to pay any amount for any fee, fine, fund, lien, civil judgment, application, costs of prosecution, trust, or restitution as part of the judgment and sentence for any disqualifying felony or misdemeanor must pay the court-ordered amount in full before he or she is eligible for the exemption.

g. A person employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. [796.07\(2\)\(e\)](#), s. [810.02\(4\)](#), s. [812.014\(2\)\(c\)](#), s. [817.563](#), s. [831.01](#), s. [831.02](#), s. [893.13](#), or s. [893.147](#), Florida Statutes, or any related criminal attempt, solicitation or conspiracy under s. [777.04](#), Florida Statutes, may request an Exemption from Disqualification without applying the waiting period.

h. An individual designated as a sexual predator, career offender, or sexual offender is not eligible for an Exemption from Disqualification, unless the requirement to register as a sexual offender has been removed pursuant to section [943.04354](#), Florida Statutes.

i. Any individual identified as Child Care Personnel who has a permanent disqualifying offense as outlined section [435.07\(4\)\(c\)](#), Florida Statutes, is not eligible for an Exemption from Disqualification.

j. If an individual seeking certification as a recovery residence administrator or applying for certification as an owner, director, or chief financial officer of a recovery residence has a disqualifying offense, he or she must apply for an exemption from disqualification under the requirements outlined in section [397.4872](#), Florida Statutes. If the individual owes any monetary sanctions, the monetary sanctions must be paid in full and the applicant will be eligible to apply for an exemption after three years from the date of payment has passed.

k. If 5 years or more, or 3 years or more for any certified peer specialist or an individual seeking certification as a peer specialist, have elapsed since an applicant for an exemption from disqualification has completed or been lawfully released from confinement, supervision or a nonmonetary condition from the applicant's most recent disqualifying offense, the applicant may work with adults with substance use disorders or co-occurring disorder under the supervision of persons who meet all personnel requirements outlined in section [397.4073](#), Florida Statutes, for up to 90 days while applying for the Exemption from Disqualification.

#### 11-5. Exemption Request Requirements.

a. It is the responsibility of the applicant to present clear and convincing evidence that he or she should be exempted from disqualification.

b. In order to be considered for an exemption from disqualification, the applicant must meet the burden of clear and convincing evidence that he or she should be exempted from disqualification. Evidence that may support a decision to grant an exemption includes, but is not limited to:

(1) Personal reference(s). The person reviewing the request for exemption should consider whether the reference document includes a date, original signature, an indication of how the applicant is known to the writer, the time lapse from the date of the recommendation and the date of the application, and a telephone number for contact, if needed.

(2) Letters from employers or other professionals. The person reviewing the request for exemption should consider whether employer or professional reference letters are provided on business letterhead, are relevant, and provide an original signature, signature date, and telephone number for contact, if needed.

(3) Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.

(4) Evidence of further education or training.

(5) Evidence of community involvement (examples include documentation of involvement in a civic organization, volunteer activities, church, etc.).

(6) Evidence of special awards or recognition.

(7) Evidence of military service, including whether such service is documented by Department of Defense Form 214.

(8) Parenting or other caregiver experiences.

c. Each person reviewing the request for exemption should carefully consider whether each evidentiary item provided in support of the request for exemption is verifiable.

d. Other factors to consider when determining whether to grant the exemption include, but are not limited to, the following:

(1) All available criminal history background information, including records, if available, from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, local police or sheriff's offense incident reports and arrest affidavits, pertinent court documents including case disposition and the applicant's plea. For disqualifying offenses, if the criminal history information is no longer available, the applicant will submit a notarized statement outlining the circumstances of the offense and any probation or other sanctions ordered and the status of the sanctions.

(2) Any information provided by the applicant regarding how he or she became involved in the incident and assurances that such an incident could not recur. Information may include:

- (a) Documentation as to the status of any imposed conditions as a result of the applicant's offense or subsequent offenses.
- (b) The length of time between the disqualifying event and the request for exemption and any subsequent law violations, whether disqualifying or not.
- (c) The severity of the harm or risk of harm to the victim or victims, including the degree of harm caused, any permanent or temporary injuries suffered, and restitution made as result of the applicant's actions.
- (d) Any other history or circumstances indicating that employment can be continued without risk of harm.

(3) In the case of applicants seeking exemptions from disqualification from employment, licensure or registration for child welfare and child care programs, the person reviewing the request for exemption may include the use of any verified abuse reports where the applicant was identified as the person responsible or when the applicant is a subject in three or more abuse reports within a five-year period. For programs other than child welfare and child care, verified reports can be used to evaluate the appropriateness of granting an exemption.

11-6. DCF Exemption Requests. If an applicant requests an exemption that is statutorily permitted, the Exemption Coordinator shall forward necessary forms to the applicant requesting an exemption review:

- a. Request for Exemption form;
- b. Exemption Application form;
- c. Checklist form for materials needed for exemption consideration which will include directions for submitting the requested documents; and,
- d. Employment History form.

11-7. Additional Required Documents.

- a. Certified court dispositions for all disqualifying offenses and non-disqualifying offenses less than 10 years old.
- b. Arrest report, charging affidavit, or citation for all disqualifying offenses and non-disqualifying offenses less than 10 years old.
- c. Non-disqualifying offenses 10 years old or greater do not need court dispositions or arrest reports, however they must be addressed by the applicant in the Exemption application.
- d. Any required court disposition(s) or arrest documentation that is no longer available, a statement from the court of jurisdiction or law enforcement agency that the record does not exist or has been destroyed is acceptable.

11-8. Completion of Application.

- a. After receipt of the exemption request package from the applicant, the Exemption Coordinator will, using due diligence, review the documents for completion. If information is missing, the Exemption Coordinator will notify the applicant in writing by mail and email.

b. The Exemption Coordinator will also search available data, including, but not limited to, a review of records from the Florida Department of Law Enforcement, the court system data base, the Federal Bureau of Investigation, local police or sheriff's offense incident reports, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information provided by the applicant, will form the basis for a recommendation as to whether the exemption should be granted.

c. The Exemption Coordinator shall search the Caretaker Screening Information System (CSIS) to determine prior licensure or other caregiver positions and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all available evidence is gathered and the exemption packet is complete, the Exemption Coordinator shall forward the exemption file to the General Counsel's Office for review by the Agency Clerk or designee.

e. The exemption request file shall be reviewed by the General Counsel's office to determine legal sufficiency.

f. The exemption request file will be prepared for review by a panel to make an initial recommendation to grant or deny the exemption. The panel consists of the Background Screening Assistant Director, a representative from Human Resources, and a representative from the Substance Abuse and Mental Health Program Office.

g. After the panel makes a recommendation, the exemption summary and recommendation shall be prepared for the Chief of Staff or the Secretary's Designee for final determination.

h. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file by copy of the decision letter and completion of the Exemption Review Report – Routing Sheet. The Routing Sheet will contain dates and signatures of the review. The Exemption Coordinators are responsible for maintaining the exemption files.

i. At no point during the evaluation process shall an evaluator rely on state or federal criminal history reports with an effective date that is more than 60 days old. If the most recent criminal history report, state or federal, is more than 60 days old at the time of review, new criminal history reports must be generated prior to the final decision being made.

j. After an exemption request decision is final, the Exemption Coordinator will provide a written response to the applicant. The letter will be prepared for the Secretary's signature.

(1) If the exemption is granted, the applicant shall be notified of the decision by regular mail. The Exemption Coordinator will update CSIS and the Clearinghouse. The facility or employer will obtain the updated eligibility through the Clearinghouse.

(2) If the request is denied, in whole or in part, notification of the decision shall be sent by certified mail, return receipt requested, to the applicant, addressed to the last known address.

k. Notification to the applicant of the Department's decision shall be made no later than 30 days following the receipt of the complete exemption request package from the applicant, all requested missing documentation from the applicant, or the new criminal history report(s) if required as provided in paragraph i above, whichever is the latest.



11-9. Exemption Transferability. If an individual who has been granted an exemption by APD or any other agency applies to the Department for an exemption, the Department shall consider the prior grant of an exemption but is not bound by any previous exemption pursuant to DCF's obligations to review disqualifications from employment.

11-10. Limitations of an Exemption. The Department has the authority to grant exemptions from disqualification to work solely in mental health treatment facilities, or in programs or facilities that treat co-occurring substance use and mental health disorders. No other limitations are permitted.

11-11. APD Exemption Requests.

a. If an applicant requests an exemption that is statutorily permitted, the Exemption Coordinator shall forward necessary forms to the applicant requesting an exemption review:

(1) APD Request for Exemption form;

(2) Checklist form for materials needed for exemption consideration which shall include directions for submitting the Exemption Request Package;

(3) Employment History form;

(4) APD Affidavit of Good Moral Character; and,

(5) Certified Court Dispositions and Arrest Reports or Charging Affidavits for **all criminal offenses**, regardless of the age of the criminal offense.

b. After receipt of the exemption request package from the applicant, the Exemption Coordinator will, using due diligence, review the documents for completion. If information is missing, the Exemption Coordinator will notify the applicant in writing by mail or email. The Exemption Coordinator will also search available data, including, but not limited to, a review of records from the Florida Department of Law Enforcement, the court system data base, the Federal Bureau of Investigation, local police or sheriff's offense incident reports, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information provided by the applicant, will form the basis for a recommendation as to whether the exemption should be granted.

c. The Exemption Coordinator shall search the Caretaker Screening Information System (CSIS) to determine prior licensure or other caregiver positions and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all reasonable evidence is gathered during the exemption review, the Exemption Coordinator shall upload the file into CSIS and notify APD that the file is complete and ready for their review.

e. The Exemption Coordinator will notify the applicant when the exemption has been transferred to APD for determination.

f. The exemption request file shall be reviewed by APD's General Counsel's Office to determine legal sufficiency. Such review and determination shall not be done by the Department, unless otherwise agreed to by the Department and APD.

g. The Department's reviewers are not involved in the APD exemption request review process.

h. If APD determines that the exemption should not be granted, the Exemption Coordinator shall be informed, and the denial shall be communicated in writing to the applicant and the employer by APD.

i. If APD determines that the exemption should be granted, the applicant will be notified in writing by APD, and the Exemption Coordinator shall be informed, and the determination documentation returned to the Exemption Coordinator.

j. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file. The Exemption Coordinators are responsible for maintaining the exemption files.

11-12. Exemption Duration. If an exemption is granted, there shall be no limitation in the duration of the exemption except as provided by statute.

11-13. Subsequent Disqualification. If an employee for whom an exemption has been granted is subsequently arrested for or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any new disqualifying offense as provided in Chapters [393](#), [408](#) and [435](#), Florida Statutes, the employee is disqualified from employment. The employee must, if he or she wishes to again become employed and is otherwise eligible to seek an exemption, seek a new exemption from disqualification. The previously-granted exemption must be identified as no longer being valid due to a subsequent disqualification in any Department maintained computer system that tracks exemptions or identifies persons with currently valid exemptions.

11-14. Security of Criminal History Records. All records of criminal background information gathered for the process of determining whether an exemption should be granted must be maintained in strict compliance with the Interagency Agreement between the Department and FDLE. This Agreement requires, among other things, that the records be maintained separately from any other departmental records, including personnel records, and that they be kept in a secure environment.

11-15. Right To Administrative Hearing (Section 120.57, Florida Statutes). The denial letter will include standard language notifying the applicant of his or her right to an administrative hearing and the requirement to submit the request to the Agency Clerk within 21 days from the date of receipt of the denial letter.