**Procedure No:** I.G.PR.010 **Issue Date:** March 1, 2020

**Subject: Qualified Provider State Criminal Background** **Effective Date:** Upon release

**Checks for Purposes of Employment Approved:**/s/Jordan A. Scheff/LT

**Section:** Qualified Providers

**Policy Statement**

The Department of Developmental Services, as part of its ongoing commitment to safety and positive outcomes for the individuals who receive funding or services from the department, believes that the best way to achieve such outcomes is to hire persons who are fully vetted for any criminal acts that they may have committed prior to their application for employment.

DDS qualified providers shall comply with the DDS requirements for criminal background checks for all employees who will have direct and ongoing contact with individuals who receive funding or services from the department pursuant to subsection (b) of section 17a-227a of the Connecticut General Statutes. The department interprets that any employee of a qualified provider, including program administrators and office personnel, has the potential to have direct and ongoing contact with individuals. Therefore, all qualified provider employees are subject to a criminal background checks when, as applicants, they have been made an offer of conditional employment. Such review and documentation shall be completed before a final offer of employment is extended.

### A. Purpose

DDS qualified providers are required to follow the DDS requirements for state criminal background checks. Employment by the qualified provider shall be considered conditional until the results of the state criminal background check are received and reviewed by the qualified provider.

### B. Applicability

This procedure shall apply to all DDS qualified providers, their staff and any applicants for employment with such providers.

### C. Definitions

“Applicant” means a person who has applied and has been made an offer of conditional employment by a DDS qualified provider.

“Conviction” means the final judgment on a guilty verdict or a finding of guilt, a plea of guilty, or a plea of nolo contendere, but does not include any final judgment that has been expunged by pardon, reversal, set aside or otherwise rendered null.

“Criminal background check” means a state criminal background check as defined in this section; a criminal history records check as defined in this section or another mechanism for conducting state criminal background checks, if approved by the department.

**“**Criminal history record” means the documentation of information collected by criminal justice agencies on persons which consists of identifiable descriptions and notations of arrests, indictments, information, or other formal criminal charges and any disposition arising therefrom, sentencing, correction supervision, and release unless such documentation has been erased pursuant to statute.

“Principal of the entity” means a provider’s designated person primarily responsible for the overall management, operation and provision of services.

“State award” means funding for individuals with intellectual disability given to DDS qualified providers through a Purchase of Service contract, individual budget, or any other reimbursement methodology.

“State criminal background check” means the accurate and up-to-date report of an applicant’s state criminal history record, if any, conducted by a qualified provider or a criminal background check vendor for the purposes of screening an applicant for employment.

“State criminal history records check” means the fingerprint-based noncriminal justice review and documentation of an applicant’s state criminal history background, if any, conducted by the State Police Bureau of Identification or any other vendor for the purposes of screening an applicant for employment.

#### D. Implementation

1. Qualified provider-designated staff person or persons shall obtain a state criminal background check for each applicant who has been made an offer of conditional employment. The state criminal background check may be conducted by a background check services vendor. Administrative costs of state criminal background checks shall be considered an allowable cost under the state award.
2. A DDS qualified provider may choose to conduct a state criminal history records check as described in section 29-17a of the Connecticut General Statutes in lieu of a state criminal background check. A qualified provider also may choose to conduct a national criminal history records check as described in section 29-17a of the Connecticut General Statutes. Administrative costs for either or both the state and the national criminal history records checks shall be considered an allowable cost under the state award.
3. Any other mechanism for conducting a state criminal background check selected by a DDS qualified provider that does not meet the guidelines outlined in subsection 1 or 2 of this procedure, shall be submitted for review and approval by the Department of Developmental Services before any such mechanism may be used to conduct state criminal background checks.
4. All personnel files for applicants, who have been made an offer of conditional employment, and new employees shall indicate that the documentation and review of the applicant’s criminal background check has been performed. Administrative files shall contain the results of the qualified provider’s criminal background check review.
5. The qualified provider shall provide an applicant, who has been made an offer of conditional employment, with an opportunity to disclose any past convictions, any pending criminal charges and any extenuating circumstances prior to the provider conducting the applicant’s criminal background check.
6. The qualified provider-designated staff person or persons shall compare the results of the applicant’s criminal background check with any information on pending criminal charges, past convictions and extenuating circumstances provided by the applicant. If there is a discrepancy between the applicant’s criminal background check and the applicant’s disclosure of pending charges, past convictions and extenuating circumstances, the qualified provider-designated staff person or persons shall review the discrepancies with the applicant.
7. An applicant’s employment by a qualified provider licensed or funded by the department shall be considered conditional and no direct supports shall be provided to individuals funded by DDS until the results of the applicant’s criminal background check have been received and reviewed by the qualified provider.
8. Any decision to hire an applicant who has a pending criminal charge or who has a history of a conviction for a criminal offense shall be approved in writing by the qualified provider’s principal of the entity or the principal’s designee. The administrative file shall document the rationale for approval and shall note any special restrictions or requirements for supervision necessary to assure the safety of individuals who receive funding or services from the department and their families.
9. In the event that an applicant has a pending criminal charge or a history of a conviction for a criminal offense, the qualified provider’s principal of the entity or the principal’s designee shall review the following factors prior to making a decision to hire or not hire the applicant:
10. Applicant’s age at the time the offense was committed;
11. Mitigating factors at the time the offense was committed (substance abuse, self-defense, etc.);
12. Number of offenses for which the applicant was convicted;
13. Applicant’s efforts and success at rehabilitation;
14. Amount of time since the offense was committed;
15. The likelihood that the applicant would repeat the offense;
16. Applicant’s employment-related references and work history since committing the offense;
17. The relationship between the job being applied for and the offense committed by the applicant; and
18. The training, structure and supervision available to the applicant, if hired.
19. If an applicant’s criminal background check reveals that the applicant has been charged with or convicted of one or more offenses listed in the chart below, the qualified provider’s principal of the entity or the principal’s designee shall, in addition to the actions listed in subsection 9, immediately review and make a determination on the applicant’s conditional employment status. The listed offenses generally are crimes against persons or crimes that hold potential for serious harm to individuals and their families.

**List of Criminal Offenses Requiring Special Review Prior to an Employment Determination**

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| Arson | Homicide |
| Assault or Related Offenses | Kidnapping or Related Offenses |
| Burglary or Related Offenses | Larceny, Robbery or Related Offenses |
| Child Pornography | Manslaughter |
| Conspiracy | Perjury or Subordination |
| Cruelty to Persons or Animals | Risk of Injury to a Minor |
| Domestic Violence | Sexual Offenses |
| Drug Offenses | Stalking |
| Forgery or Related Offenses | Threatening |
| Fraud | Unlawful Restraint |
| Harassment | Weapons Violations |

1. If a person, who has a pending criminal charge or a history of a conviction for a criminal offense, is employed after the employment review factors listed in subsections 9 and 10 of this procedure have been considered, the qualified provider shall maintain documentation that any issues or concerns resulting from a state criminal background check or a state or national criminal history records check were successfully addressed.
2. DDS qualified providers shall comply with the provisions of [section 46a-80](#hit4) of the Connecticut General Statutes (CGS). Qualified providers also are encouraged to follow the public policy outlined in [section 46a-79](#hit3) CGS.
3. **References**

**Section 17a-227a of the Connecticut General Statutes** “**State criminal background checks for applicants for employment.**” as amended by section 52 of Public Act No. [18-168](https://www.cga.ct.gov/2018/ACT/pa/pdf/2018PA-00168-R00HB-05163-PA.pdf) and section 25 of Public Act No. [19-118](https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00118-R00SB-00920-PA.pdf).

Section 46a-79 of the Connecticut General Statutes (Formerly Sec. 4-61n). “**State Policy re employment of criminal offenders.**” The General Assembly finds that the public is best protected when criminal offenders are rehabilitated and returned to society prepared to take their places as productive citizens and that the ability of returned offenders to find meaningful employment is directly related to their normal functioning in the community. It is therefore the policy of this state to encourage all employers to give favorable consideration to providing jobs to qualified individuals, including those who may have criminal conviction records.

Section 46a-80 of the Connecticut General Statutes (Formerly Sec. 4-61o).“**Denial of employment based on prior conviction of crime. Inquiry re prospective employee's past convictions. Dissemination of arrest record prohibited.**” (a) Except as provided in subsection (c) of this section, subsection (b) of section 46a-81 and section 36a-489, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state or any of its agencies solely because of a prior conviction of a crime.

(b) Except for a position for which any provision of the general statutes specifically disqualifies a person from employment by the state or any of its agencies because of a prior conviction of a crime, no employer, as defined in section 5-270, shall inquire about a prospective employee's past convictions until such prospective employee has been deemed otherwise qualified for the position.

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if, after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought. In making a determination under this subsection, the state or any of its agencies shall give consideration to a provisional pardon issued pursuant to section 54-130e, or a certificate of rehabilitation issued pursuant to section 54-108f or 54-130e, and such provisional pardon or certificate of rehabilitation shall establish a presumption that such applicant has been rehabilitated. If an application is denied based on a conviction for which the applicant has received a provisional pardon or certificate of rehabilitation, the state or any of its agencies, as the case may be, shall provide a written statement to the applicant of its reasons for such denial.

(d) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(e) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certificate or registration.

1. **Attachments**

None